

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

- - - - -X

DAVID VANN,

Plaintiff,

- against - Case No.:

18-cv-6464 (EAW) (MJP)

THE CITY OF ROCHESTER, et al.,

Defendants.

- - - - -X

March 23, 2022

3:11 p.m.

DEPOSITION VIA ZOOM VIDEOCONFERENCING of  
ADAM BRODSKY, s/h/a POLICE OFFICER ADAM BRODSKY, one  
of the Defendants herein, taken by the Plaintiff,  
pursuant to Federal Rules of Civil Procedure, and  
Notice, held at the above-noted date and time, before  
Jeanine Koerner, a Stenotype Reporter and Notary  
Public of the State of New York.

**COPY**

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BY: ELLIOT SHIELDS, ESQ.

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File #: 6162

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(Via Zoom Videoconferencing)

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CITY OF ROCHESTER, NEW YORK -

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BY: JOHN CAMPOLIETO, ESQ.

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(Via Zoom Videoconferencing)

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## FEDERAL STIPULATIONS

IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the respective parties herein, that the sealing, filing and certification of the within deposition be waived;

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to form, are reserved to the time of trial;

IT IS FURTHER STIPULATED AND AGREED that the transcript of this deposition may be signed before any Notary Public, with the same force and effect as if signed before a clerk or Judge of the Court;

IT IS FURTHER STIPULATED AND AGREED that all rights provided to all parties by the F.R.C.P. cannot be deemed waived, and the appropriate sections of the F.R.C.P. shall be controlling with respect thereto.

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## P R O C E E D I N G S

THE REPORTER: The attorneys participating in this deposition acknowledge that I am not physically present in the deposition room and that I will be reporting this deposition remotely.

They further acknowledge that, in lieu of an oath administered in person, I will administer the oath remotely.

The parties and their counsel consent to this arrangement and waive any objections to this manner of reporting.

Please indicate your agreement by stating your name and your agreement on the record.

MR. SHIELDS: Agreed.

MR. CAMPOLIETO: Agreed.

o0o

1 A D A M B R O D S K Y,

2 having first been duly sworn by the Notary  
3 Public, was examined and testified as follows:

4 THE REPORTER: Please state your  
5 full name for the record.

6 THE WITNESS: Adam Brodsky.

7 THE REPORTER: Please state your  
8 present business address for the record.

9 THE WITNESS: 185 Exchange Boulevard,  
10 Rochester, New York 14614.

11 EXAMINATION BY

12 MR. SHIELDS:

13 Q All right. Good afternoon,  
14 Officer Brodsky.

15 A Good afternoon.

16 Q My name is Elliot Shields. I represent  
17 the man that was injured, and I'm going to ask you  
18 some questions today.

19 If there is anything I ask you that you  
20 don't understand, please say so, and I'll gladly  
21 rephrase any questions, okay?

22 A Very good.

23 Q And otherwise, if you answer the  
24 question, I'm going to assume that you understood it.

25 Do you understand everything I said so

1 P.O. Adam Brodsky

2 far?

3 A I do.

4 Q And you agree to those terms?

5 A Yes.

6 Q Okay. And we're doing it on a virtual  
7 deposition today on Zoom.

8 Where are you doing this virtual  
9 deposition from?

10 A City of Rochester City Hall.

11 Q And is there anyone in the room with you  
12 other than your attorney?

13 A No.

14 Q And do you have any papers in the room  
15 with you that you plan to review to help you to answer  
16 any questions?

17 A I don't have any papers with me, no.

18 Q And you understand that everything we're  
19 talking about is going to be recorded and transcribed  
20 into a little book for use at trial in this matter?

21 A I do.

22 Q And have you ever been questioned under  
23 oath before?

24 A Yes.

25 Q How many times?

1 P.O. Adam Brodsky

2 A Well over 50.

3 Q And were those all in the context of  
4 criminal proceedings or something else?

5 A Most of them were, yes.

6 Q Okay. And other than criminal  
7 proceedings, what testimony under oath have you given  
8 previously?

9 A One prior deposition.

10 Q And was that a civil rights case like  
11 this one or something else?

12 A Um, I don't know if you would -- it was  
13 for a false arrest or something like that. I don't  
14 know if it's classified as that.

15 Q Okay. And was that when you were an  
16 officer with the Rochester Police Department?

17 A No.

18 Q Where were you working at the time you  
19 gave that deposition?

20 A In the City of Buffalo for the Niagara  
21 Frontier of Transportation Authority.

22 Q Okay. And what was the name of that  
23 case, if you remember?

24 A Um, I believe his name was Buckley.

25 Q Okay. And can we just back up? Can you

1 P.O. Adam Brodsky

2 give me the name of the Buffalo Niagara Authority,  
3 whatever that was again?

4 A Niagara Frontier Transportation  
5 Authority, referred to as a lot of times NFTA.

6 Q Okay, thank you.

7 And so would that be like a police  
8 department for the transit system in Buffalo?

9 A Yes.

10 Q I'll ask you more questions about that  
11 in a minute. Let's see.

12 And so you gave your business address,  
13 but do you live in the city of Rochester or somewhere  
14 else?

15 A Somewheres else.

16 Q Can you give me the town or whatever  
17 suburb you live in? I don't need the actual address.

18 MR. CAMPOLIETO: We're not giving  
19 out any information about addresses,  
20 towns, or whatever. We can take this up  
21 later with the judge, if you want,  
22 Elliot, but --

23 MR. SHIELDS: It's not a huge,  
24 big deal. You know, it's just on the  
25 website, it says he doesn't live in the



1 P.O. Adam Brodsky  
2 city of Rochester. That's good enough  
3 for me.

4 MR. CAMPOLIETO: Okay.

5 Q Are you aware that Mayor Warren proposed  
6 changing the law to require RPD officers to live in  
7 the city?

8 MR. CAMPOLIETO: Objection.

9 A I'm sorry. Your question was, was I  
10 aware if what?

11 Q So before she left office, Mayor Warren  
12 proposed making a change to the law to require RPD  
13 officers to live inside of the city of Rochester.

14 A Okay.

15 Q Are you aware of that?

16 A No.

17 Q If the law changed and you were required  
18 to live in the city of Rochester, would you continue  
19 working as an RPD officer?

20 MR. CAMPOLIETO: Objection.

21 A I mean, I think we're thinking  
22 hypothetically if -- I mean, I don't know how far we  
23 want to go down what ifs.

24 Q Yeah, sure. Can you just answer my  
25 question?

1 P.O. Adam Brodsky

2 A So if the -- if the mayor were to ask  
3 for me to live outside -- to live in the city to  
4 continue to be employed by the City of Rochester  
5 Police Department, would I move and live in the city?

6 Q Correct.

7 A I don't know.

8 Q Maybe you would, maybe you wouldn't?

9 A Right. I don't -- unless I was  
10 presented with that actual situation, I don't know.  
11 That's a big adjustment, so I'm not sure what I would  
12 do.

13 Q Yeah. I mean, I think that's why  
14 there's a lot of controversy about it, right? So  
15 that's why I'm asking you, if you were required to  
16 live inside of the city of Rochester to work as a  
17 Rochester Police Department officer, you're not sure  
18 if you would do that; is that your answer?

19 A Yes.

20 Q Okay. And, um, so I'll try to tell you  
21 as we go through the deposition where I'm going.  
22 First, I'm going ask some more background questions,  
23 and then I'll -- so I'll start with your educational  
24 background, okay?

25 Where did you go to high school?

1 P.O. Adam Brodsky

2 A Kenmore West.

3 Q Where is that?

4 A Kenmore, New York.

5 Q Kenmore West in Kenmore, New York, okay.

6 And what's your highest level of

7 education?

8 A Bachelor's degree.

9 Q And where did you get that from?

10 A Hilbert College.

11 Q Where is Philbert College?

12 A Hilbert with an H, as in Henry.

13 Q Okay. And where is that?

14 A Hamburg, New York.

15 Q Did you get your BA in any particular

16 field?

17 A I did.

18 Q What would that be?

19 A It's called economic crime

20 investigation.

21 Q And can you tell me about that a little

22 bit?

23 A Sure. Um, it's a technology-based

24 approach to white-collar crime and fraud

25 investigation.

1 P.O. Adam Brodsky

2 Q And what year did you get your BA from  
3 Hilbert College?

4 A I believe it was 2006.

5 Q All right. And so in addition to  
6 white-collar criminal matters, did that involve any  
7 other type of police work, coursework?

8 A I have an associate's degree in criminal  
9 justice as well.

10 Q And is that also from Hilbert College?

11 A Correct.

12 Q And did you get that at the same time in  
13 2006 or a different time?

14 A No. That would have been, I think,  
15 either 2003 or 2004.

16 Q Okay. So after you got your associate's  
17 degree in criminal justice, did you continue directly  
18 on to get your BA in economic crime investigation?

19 A I did.

20 Q During that time, were you working as  
21 well?

22 A Um, off and on, I believe I had  
23 part-time jobs.

24 Q Any police-related work during that  
25 time?

1 P.O. Adam Brodsky

2 A No.

3 Q What kind of jobs generally?

4 A Um, a restaurant, um, changing oil in  
5 cars and tires, um, coaching tumbling for kids.  
6 That's about all I can think of.

7 Q Okay. No, like, um, security guard work  
8 or anything like that?

9 A No.

10 Q And can you give me an overview of your  
11 experience as it relates to police work?

12 A Sure. In January 2009, um, I was hired  
13 by the NFTA Police Department. I attended the  
14 Erie County Law Enforcement Training Academy at that  
15 time. After successfully completed that, I was placed  
16 on field training. Once I successfully completed  
17 that, I was then, um, a solo police officer for the  
18 NFTA.

19 Um, I remained employed as a police  
20 officer with them until January 2015, when I came to  
21 the City of Rochester department. Um, I attended the  
22 Monroe County Law Enforcement Training Academy at that  
23 time, completed that successfully. Then was in field  
24 training here as well. And once I completed that, I  
25 became a solo City of Rochester police officer.

1 P.O. Adam Brodsky

2 Q All right. So let me ask you some  
3 questions about what you just said.

4 So 2009, you're hired by NFTA, the  
5 police department.

6 Generally, what is the, like, geographic  
7 boundaries that you would police there?

8 A There is two different divisions. There  
9 was the downtown division and there was an aviation  
10 division. Um, our jurisdictional boundaries were  
11 Erie County, Niagara County, and Genesee County.

12 Q And that's separate and apart from the  
13 Buffalo Police Department, right?

14 A Correct.

15 Q How many officers were within NFTA?

16 A I don't know currently. At that time, I  
17 think we were right around a hundred.

18 Q And what was your assignment after you  
19 completed -- let me back up.

20 So you went to the Erie County Training  
21 Academy. How long did that last?

22 A I believe it's a six-month academy.

23 Q All right. Was that just for NFTA or  
24 did you go with, for example, Buffalo police officers  
25 also?

1 P.O. Adam Brodsky

2 A Correct. It was for the towns, the  
3 villages and cities in Eerie County.

4 Q Okay. So that was six months, you said?

5 A Yeah. They usually -- all of the  
6 New York State academies like that are usually, I  
7 believe, six months.

8 Q Okay. And then you said you did field  
9 training with the NFTA.

10 How long did that last?

11 A It's hard for me to remember exactly,  
12 but I believe around three, four months it was.

13 Q Okay. All right. And you mentioned  
14 earlier that there was one lawsuit that you were  
15 involved with from your time at the NFTA, correct?

16 A Correct.

17 Q Were you named as a defendant in that  
18 case?

19 A I was brought in for a deposition. I  
20 don't really understand much how that works as far as  
21 being named or --

22 Q Sure.

23 A -- how that works.

24 Q Did someone allege that you did  
25 something wrong?

1 P.O. Adam Brodsky

2 A Yeah. I suppose, yes.

3 Q Okay. Do you remember what happened  
4 with that case? Did it go to trial?

5 A It was dismissed.

6 Q Okay. So dismissed before trial?

7 A I believe it went to a magistrate who  
8 dismissed it, and then upon appealing, it was  
9 dismissed by the judge.

10 Q Got it. So you only testified once in a  
11 deposition but never before a jury, a trial, right?

12 A Correct. I mean, for criminal matters,  
13 yes. For that, no.

14 Q That's what I meant. Just for that  
15 case. Okay.

16 So you were with the NFTA from 2009 to  
17 2015, correct?

18 A Correct.

19 Q So about six years?

20 A Correct.

21 Q And then after that, you came to the  
22 RPD?

23 A Yes.

24 Q And why did you decide to go from the  
25 NFTA to the RPD?



1 P.O. Adam Brodsky

2 A Um, I was trying to seek out the -- what  
3 I felt was the best city department in New York State.

4 Q And so you did that in 2015?

5 A Well, prior to. I was hired in 2015.

6 Q Sorry. So can you tell me the process  
7 about getting hired with the RPD? Did you submit an  
8 application?

9 A Um, I believe the first step is signing  
10 up for the test.

11 Q Okay. So you had to take an officer  
12 test?

13 A It's a written civil service test.

14 Q Okay. So you take the civil service  
15 test. Um, I'm assuming -- did you pass on the first  
16 try?

17 A Yes.

18 Q Okay. So you passed the test. Then  
19 what was the next step?

20 A You -- you're brought in for a physical  
21 agility test I believe is next.

22 Q Okay. So you do that. And then what  
23 happened next?

24 A At that time you turn in a background  
25 packet as well. So after you complete -- if you

1 P.O. Adam Brodsky

2 successfully complete the physical agility part, you  
3 go on to turn in your background packet.

4 Q Okay. And then what happened next?

5 A Um --

6 Q I'll withdraw that.

7 Eventually you got a letter or something  
8 saying, Officer Brodsky, we'd like to offer you  
9 employment with RPD?

10 A I believe there's a -- you meet with a  
11 panel of administrators, and then that happens. That  
12 might have been the very last step. There's like a  
13 face-to-face meeting with administration.

14 Q And when you say "with administration,"  
15 that'd be RPD administration?

16 A Right.

17 Q All right. So you do that, um, and then  
18 you get hired, and you said that you went to the  
19 police academy in Monroe County in January of 2015; is  
20 that right?

21 A Correct.

22 Q All right. And how long did that last,  
23 six months?

24 A Correct.

25 Q Okay. And then were you, um -- so you

1 P.O. Adam Brodsky

2 went full time to the police academy?

3 A I did.

4 Q And you had to go to the police academy  
5 all over again in Rochester even though you'd already  
6 completed that in Eerie County?

7 A Correct.

8 Q That doesn't like transfer or something?

9 A It should.

10 Q Um, you didn't ask for a waiver or  
11 anything like that?

12 A The answer I got was -- is usually what  
13 happens is, is if you're a certified police officer in  
14 New York State, they'll do what they call the lateral  
15 academy where if they have several officers that were  
16 already sworn off, and so they do an abbreviated  
17 academy. Um, but in this case, I believe I was the  
18 only one at the time, so they weren't going to do that  
19 specifically for me, so if I wanted the job I had to  
20 attend the academy.

21 Q Got it. Um, and you went full time like  
22 everyone else or did you get out of some stuff since  
23 you'd already been working as a police officer for six  
24 years?

25 A No. I went full time like everybody

1 P.O. Adam Brodsky

2 else.

3 Q Um, all right. So you complete the  
4 police academy, and let's see, how many hours a week  
5 was that?

6 A I think right around 40. It was a  
7 full-time position.

8 Q Okay. And then after the police academy  
9 you did field training?

10 A Correct.

11 Q With the RPD?

12 A Right.

13 Q And how long did that last?

14 A Four months.

15 Q Do you remember the date that you  
16 completed your police academy with the RPD?

17 A Including field training are you asking?

18 Q No. So do you remember when you  
19 transitioned from the police academy to field  
20 training?

21 A I do not.

22 Q But if it's six months, sometime around  
23 June or July?

24 A Yes. They have a post academy as well  
25 where the City of Rochester does additional training

1 P.O. Adam Brodsky  
2 beyond, um, what is required than just the academy.  
3 So we attend that for a few more weeks than the  
4 regular, um -- the other towns, villages that attended  
5 that academy as well. So I'm not sure exactly how  
6 that lines up and what date that would be, so it was  
7 around those months.

8 (Reporter clarification.)

9 Q Is what you just said? So post academy  
10 training, is that between the police academy and field  
11 training?

12 A Correct.

13 Q Do you remember how long that lasted?

14 A If I remember correctly, about two  
15 weeks.

16 Q Okay. And so that's basically extra  
17 classroom training before you go out into the field?

18 A Yes.

19 Q And during your field training, did you  
20 have a field training officer?

21 A I had several.

22 Q Okay. Were those specific assigned  
23 people?

24 A Yes.

25 Q And before we get into who they were,

1 P.O. Adam Brodsky

2 were they -- was it one person at a time?

3 A Can you clarify what you mean by that?

4 Q So like would you have one person --

5 let's say you had four and it lasted four months.

6 Would it be one person for one month, one person for  
7 month two, one person for month three, one person for  
8 month four, or kind of four people throughout the  
9 entire field training?

10 A No. Like you stated, so it's broken  
11 down into the four phases, and you have one field  
12 training officer per month, unless they're out sick or  
13 there's something they have to do, and then they'll  
14 have people fill in.

15 Q Got it. Do you remember who your field  
16 training officers were?

17 A Yes.

18 Q Okay. Who were they for the different  
19 phases?

20 A My primary field training officer was  
21 now Lieutenant Justin Stewart. My secondary field  
22 training officer was Officer Timothy Dempsey. My  
23 third tertiary training officer was  
24 Officer Margaret Dreyhan (phonetic). And then for  
25 your final phase, you would turn back to your primary

1 P.O. Adam Brodsky  
2 officer. So it would have been Lieutenant  
3 Justin Stewart again. So actually it's only three,  
4 not four officers. Sorry.

5 Q Okay. In those terms that you used,  
6 primary, secondary, tertiary, those are RPD terms? Is  
7 that what they call them in general?

8 A Yes.

9 Q In general, are you supposed to be  
10 learning different things during the different phases  
11 of your field training?

12 MR. CAMPOLIETO: Objection.

13 You can answer.

14 A I'm sorry. You have to be a little more  
15 specific.

16 Q Yeah. Like what's the difference  
17 between Phase I and Phase II?

18 A Sure. The amount of responsibility on  
19 the officer and their duties change per phase,  
20 correct.

21 Q When you're doing your field training,  
22 do you have your own car or are you assigned with your  
23 FTO?

24 A You're riding in a car with your FTO.

25 Q And, um, are you -- you said riding in

1 P.O. Adam Brodsky

2 the car, so does that mean that you're the passenger  
3 in the car or is there ever a time where you'd be the  
4 driver?

5 A I -- both.

6 Q So it just depends?

7 A No. It's broken down further.

8 Q Okay.

9 A Um, in the primary phase, the first two  
10 weeks are observational, so you do not drive during  
11 that. The secondary phase, I want to say for the  
12 first two days, um, they use that as a limbo or  
13 observational period. Um, the same for the third.  
14 And then you should be -- there isn't a limbo phase  
15 for your final.

16 Q Okay.

17 A So other than those that I mentioned,  
18 you should be driving unless the recruit has an issue  
19 with driving.

20 Q Got it. When you say an issue with  
21 driving, you mean -- can you explain what you mean by  
22 that?

23 A Um, I imagine if a recruit isn't  
24 operating the vehicle as the training officer would  
25 like them -- to see them do that, that may require



1 P.O. Adam Brodsky

2 some type of remedial training or if they're involved  
3 in an accident, maybe that would require remedial  
4 training.

5 Q Got it. Let's see, and just going  
6 through some of the stuff you learned at the academy.  
7 You covered basic topics like, I don't know, police  
8 sciences?

9 A Police science?

10 Q I guess, you know, like practices and  
11 procedures?

12 A Sure.

13 Q And you're taught like good and accepted  
14 police practices and procedures?

15 MR. CAMPOLIETO: Objection.

16 You can answer, if you can.

17 A I'm sorry. You would have to be a  
18 little more specific. I'm not sure what you mean by  
19 that.

20 Q Sure. So, um, is the -- were the  
21 courses taught by like the Division of Criminal  
22 Justice Services?

23 A It depends on the topic.

24 Q Okay. So some of the topics were DCJS  
25 trainings?

1 P.O. Adam Brodsky

2 A Some of the topics would be taught by  
3 officers who like received additional training for  
4 Instructor Development School.

5 Q But in general, the purpose of -- the  
6 purpose of going to the police academy is to learn how  
7 to do your job as a police officer, correct?

8 A Yes, functions -- certain functions,  
9 correct.

10 Q And you were taught the professional  
11 police standards of care?

12 MR. CAMPOLIETO: Objection.

13 A I guess I just have trouble following  
14 the terminology. I mean, I'm not -- 'cause I'm not  
15 sure what you mean when you say that.

16 Q Sure. So you're taught the minimum  
17 standards of care for a police officer, right?

18 MR. CAMPOLIETO: Objection.

19 Q Do you understand what the term  
20 "standard of care" means?

21 A I guess I would like for you to explain  
22 that further.

23 Q So you're taught how to -- for example,  
24 the laws of arrest, correct?

25 A Correct.

1 P.O. Adam Brodsky

2 Q What constitutes probable cause?

3 A Correct.

4 Q How to make that determination when  
5 you're in the field?

6 A Correct.

7 Q And you're taught things like, you know,  
8 Graham v O'Connor [sic] and objective reasonableness  
9 in terms of use of force?

10 A Correct.

11 Q And so you're taught the standards of  
12 care for when you have probable cause to make an  
13 arrest, correct?

14 MR. CAMPOLIETO: Objection.

15 A If what you just described is what  
16 you're summing it up to be, then yes. I guess when  
17 you say "standards of care," I just don't follow that  
18 other than the examples you just gave.

19 Q Yeah. So, for example, you're taught,  
20 you know, that you can't use force unless under the  
21 circumstances it's objectively reasonable to do so,  
22 correct?

23 A Yes.

24 Q And you're taught -- are you taught  
25 things like that, um, based on case law? Do they go

1 P.O. Adam Brodsky

2 over case law with you?

3 A Yes.

4 Q For example, you understood when I said  
5 Graham v O'Connor, right?

6 A Correct.

7 MR. CAMPOLIETO: Objection.

8 Q And you're taught about how to properly  
9 fill out paperwork and stuff like that?

10 A Some of it's general because you have  
11 more than one department in there and not everybody --  
12 not every department has the same paperwork, so it's  
13 hard to duplicate it exactly in the academy setting.

14 Q So after you left the academy, are you  
15 given specific training by the RPD about the  
16 requirements to fill out paperwork after an incident?

17 A In field training, is that what you're  
18 asking me?

19 Q Sure. Let's go with field training.  
20 During field training do you learn that?

21 A You'd go over the paperwork that would  
22 be required for the incident that you're involved in.

23 Q And I guess the idea would be in the  
24 course of four months you should be exposed to various  
25 different incidents and learn on the job?

1 P.O. Adam Brodsky

2 A Correct.

3 Q And in the academy you're taught about  
4 the Use of Force Matrix?

5 A Correct.

6 Q And I forgot to ask.

7 Can you tell me everything that you did  
8 to prepare for today's deposition?

9 A I had a meeting with my attorney  
10 approximately a week ago, and we watched an angle of  
11 the video footage from this case.

12 Q Um, did you talk with anybody else in  
13 preparation for this deposition?

14 A No.

15 Q Did you review any paperwork in  
16 preparation of the deposition?

17 A No.

18 Q Did you watch any other videos?

19 A No.

20 Q And the video that you watched in  
21 preparation for the deposition, um, it was of the  
22 incident that we're here to talk about as part of this  
23 lawsuit?

24 A Correct.

25 Q And, um, how long was that meeting?

1 P.O. Adam Brodsky

2 A I'm sorry?

3 Q How long did the meeting last? Don't  
4 tell me anything that you and John talked about.  
5 Just, um, you know, was it 30 minutes, an hour?

6 A Maybe 15 minutes, 20.

7 Q And did you speak with anybody in the  
8 police department about your deposition today?

9 A No.

10 Q Okay. Did you speak with any of the  
11 other defendants in this case?

12 (Inaudible sounds.)

13 (Reporter clarification.)

14 MR. CAMPOLIETO: I just asked  
15 what time frame are you talking about?  
16 In preparation for the deposition?

17 MR. SHIELDS: All right, John,  
18 you know, I'm just going to ask if he's  
19 confused that he ask the question and you  
20 can just say objection, if you have an  
21 objection.

22 MR. CAMPOLIETO: Okay. I object  
23 to the question. And maybe you can  
24 clarify it for the officer.

25 MR. SHIELDS: All right, John,

1 P.O. Adam Brodsky  
2 you can say "I object," you know, but  
3 don't give him instructions about why  
4 you're objecting.

5 MR. CAMPOLIETO: No. I was  
6 giving you the instruction.

7 MR. SHIELDS: All right, well,  
8 look, if he's confused by my question, we  
9 went over this in the beginning, and he  
10 promised me that he would ask for  
11 clarification, so I will withdraw my  
12 question and re-ask it.

13 Q At any time since you were told that you  
14 were going to have to testify at this deposition, have  
15 you spoken with any of the other officers involved in  
16 this lawsuit?

17 A Regarding this deposition?

18 Q Regarding the deposition or the case in  
19 general.

20 A No.

21 Q At any time since this lawsuit was  
22 filed, have you spoken with any of the other officers  
23 involved in the incident?

24 A Regarding the incident?

25 Q Regarding the incident.

1 P.O. Adam Brodsky

2 A No, I have not.

3 Q Not about, you know, coaching Little  
4 League.

5 A Right.

6 Q Um, so you already said you didn't  
7 review any paperwork in preparation, right?

8 A Right.

9 Q Have you -- other than preparing for  
10 this deposition in connection with the lawsuit, have  
11 you viewed any videos or reviewed any paperwork?

12 A I'm sorry, can you repeat that?

13 Q Sure. Like since the case was filed,  
14 right, we filed the Summons & Complaint and then we  
15 served it on you at the police department. Did you  
16 review the Summons & Complaint when it was served?

17 A No.

18 Q Okay. Do you understand, you know, what  
19 my client alleges you did wrong in this case?

20 A I do not.

21 Q Okay. Um, and let's get back to the Use  
22 of Force Matrix for a second.

23 Now, would you agree that Force Matrix  
24 is an approach to the escalation and deescalation of  
25 levels of force or control in a response to levels of



1 P.O. Adam Brodsky

2 resistance?

3 A Yes.

4 Q Okay. And you were taught various  
5 defensive tactics that would fall on the spectrum on  
6 the Force Matrix, correct?

7 A Correct.

8 Q And the sole purpose for any defensive  
9 tactic is control, correct?

10 MR. CAMPOLIEITO: Objection.

11 A I wouldn't say that's the sole purpose.

12 Q Okay. What are the other purposes?

13 A Um, well, control or effect the arrest,  
14 also defend yourself. I think that's a big part of it  
15 as well.

16 Q Um, and you were taught that as you're  
17 progressing through the use of force, um, you're  
18 supposed to verbalize throughout the entire encounter  
19 and deescalate your force when the subject complies  
20 with those commands?

21 MR. CAMPOLIEITO: Objection.

22 You can answer.

23 A I agree that you escalate and deescalate  
24 as necessary. Um, as far as verbalizing the entire  
25 time, that may not be applicable.

1 P.O. Adam Brodsky

2 Q Okay. If that was something in your  
3 training, you'd remember it?

4 MR. CAMPOLIETO: Objection.

5 A That if what was in my training?

6 Q If that was something that like was in  
7 the RPD's policies and training, um, would you agree  
8 that that's something that you're supposed to do?

9 A To verbalize?

10 Q Yeah, you know, Hey, stop resisting,  
11 stop resisting.

12 A Sure.

13 Q And is that something that you're taught  
14 to say specifically to a subject when you're making an  
15 arrest?

16 A That specific phrase?

17 Q Correct.

18 A I don't remember that.

19 Q Are there any specific phrases that  
20 you're taught to say to somebody when you're effecting  
21 an arrest?

22 A "Put your hands behind your back, you're  
23 under arrest."

24 Q Um, okay. And on the Use of Force  
25 Matrix, there's four levels of force, correct?

1 P.O. Adam Brodsky

2 A Correct.

3 Q And Level 1, um, is presence, dialogue,  
4 verbal, non-verbal psych; is that right?

5 A Yes.

6 Q So that just basically means no physical  
7 contact?

8 A Correct.

9 Q So the basic idea is that just by being  
10 a police officer with a gun and other weapons on your  
11 belt, that's intimidating to a subject, right?

12 MR. CAMPOLIEITO: Objection.

13 A I don't think that that's what the, um,  
14 the spirit behind that is.

15 Q Okay. Can you just kind of explain what  
16 Level 1 is then?

17 A Sure. I think you're right when you say  
18 it's the presence, um, and the presence of you being  
19 there as a law enforcement officer. Um, I don't  
20 believe that intimidation would be necessarily  
21 somebody cause compliance.

22 Q Yeah. Intimidation was a bad word. I  
23 agree.

24 I guess what I mean more is you're there  
25 in a situation as a police officer perhaps to -- you

1 P.O. Adam Brodsky

2 know, two people are arguing, and you just kind of  
3 show up and make your presence known and maybe the  
4 argument ends instead of escalating to a fight, right?

5 A That could be part of Level 1, correct.

6 Q Okay. Um, and then maybe everything is  
7 done, no one is arrested, everyone goes on their own  
8 way, right?

9 A Sure.

10 Q Okay. Um, and then Level 2 is  
11 persuasion compliance or soft techniques; is that  
12 right?

13 A Sure. I mean, I think of it more as --  
14 well, I mean, yes, that's what we would categorize it,  
15 I suppose, in the Level 2, yes.

16 Q Okay. And that would involve the use of  
17 like OC spray and pressure points?

18 A Correct.

19 Q And can you elaborate more to what  
20 Level 2 would be?

21 A Non-verbal compliance.

22 Q And can you --

23 A That's -- if somebody were to tell you  
24 if you -- if you were -- if you told somebody that  
25 they were under arrest and to place their hands behind

1 P.O. Adam Brodsky

2 their back and they say no and cross their arms, that  
3 is non-verbal compliance.

4 Q That's when Level 2 would be  
5 appropriate?

6 A Correct.

7 Q Um, and then what's the difference  
8 between Level 2 and Level 3 if Level 2 involves, um,  
9 some use of physical force, correct?

10 A Correct.

11 Q Um, would there ever be a situation  
12 where you would use Level 2 force but not effectuate  
13 an arrest?

14 A Yeah, yes.

15 Q Can you give me an example?

16 MR. CAMPOLIETO: Objection.

17 Q When he objects, unless he directs you  
18 not to answer, you can just go ahead and answer it.

19 A I'm sorry. Can you repeat what you were  
20 asking me?

21 Q Yeah. Can you give me an example of a  
22 situation where you might use Level 2 force but not  
23 effectuate an arrest?

24 A Could be a riotous condition.

25 Q Okay. What if you're just trying to

1 P.O. Adam Brodsky

2 like say, Hey, you know, you need to leave, and the  
3 person is not complying with your orders to leave the  
4 area, um, outside of the context of a protest or riot,  
5 as you called it?

6 MR. CAMPOLIETO: Objection.

7 A I guess you'd have to be more specific.

8 Q Sure. You want somebody to leave the  
9 area, right? Do you push them and say, Get out of  
10 here, but not arrest him?

11 MR. CAMPOLIETO: Objection.

12 A I wouldn't probably do that.

13 Q Okay. Other than the context of a riot  
14 or protest, um, can you give me an example of using  
15 Level 2 force but not effectuating an arrest?

16 A Could be a situation of defense where  
17 you're defending yourself and maybe you're not sure  
18 who the suspect is. Um, I mean, I -- there's times  
19 where you use force and you're not necessarily  
20 arresting the person.

21 Q So there's times when you might use  
22 force when you don't have probable cause to arrest the  
23 person?

24 A Correct -- well, no. I mean, you do,  
25 but you're making a decision not to arrest that

1 P.O. Adam Brodsky

2 person.

3 Q Okay. And, um, so Level 3 involves a  
4 greater use of force than Level 2, correct?

5 A Correct.

6 Q And that'd be hard reactionary  
7 techniques, like kicks and punches?

8 A Correct.

9 Q And, um, other than kicks and punches,  
10 what other type of -- how about like throwing someone  
11 on the ground?

12 MR. CAMPOLIETO: Objection.

13 Q So Level 3 would basically be everything  
14 between, you know, Level 2 and Level 4, obviously,  
15 right?

16 A Well, if it doesn't constitute a Level 2  
17 technique or a Level 4 technique, then yes, it would  
18 fall into Level 3.

19 Q Um, and Level 4 is lethal force,  
20 correct?

21 A Deadly physical force.

22 Q And there's different types of deadly  
23 physical force, correct?

24 A Correct.

25 Q Like using a firearm, obviously?

1 P.O. Adam Brodsky

2 A That is one.

3 Q Um, and in general, is the force capable  
4 of causing serious physical injury or death?

5 A Correct.

6 Q And, um, Level 4 force could include  
7 like nontraditional uses of physical force, correct?

8 MR. CAMPOLIETO: Objection.

9 A I ask what do you mean by traditional or  
10 nontraditional?

11 Q Sure. Are you trained as part of your  
12 RPD training that there's "nontraditional" uses of  
13 physical force?

14 A I just don't know what you mean by that.

15 Q Sure. I mean, could striking someone in  
16 the head be considered Level 4 use of force?

17 A It depends.

18 Q So by "it depends," the answer is yes,  
19 it could be considered in some circumstances, correct?

20 A Yes.

21 Q In general, striking someone above the  
22 clavicle with your hand could be considered a Level 4  
23 use of force, correct?

24 MR. CAMPOLIETO: Objection.

25 MR. SHIELDS: John, you got to



1 P.O. Adam Brodsky  
2 stop objecting when it's not an  
3 objectionable question.

4 MR. CAMPOLIETO: Sure, that's  
5 objectionable when you're giving him a  
6 hypothetical and --

7 MR. SHIELDS: John, I can ask him  
8 any hypothetical I want and you're --

9 MR. CAMPOLIETO: (Inaudible.)

10 MR. SHIELDS: -- objecting and  
11 give him instructions. Every time you  
12 object, he sits here and gives me some  
13 kind of wishy-washy answer because you're  
14 directing him in some way. You can't  
15 make objections --

16 MR. CAMPOLIETO: You're asking  
17 him hypothetical questions that make no  
18 sense to a police officer.

19 MR. SHIELDS: John, it's up to  
20 him to say that he's confused and doesn't  
21 understand my question.

22 MR. CAMPOLIETO: I'm here to  
23 defend the deposition and I'll object if  
24 I --

25 MR. SHIELDS: John, you're making

1 P.O. Adam Brodsky  
2 improper objections and I'll call the  
3 judge if you keep it up.

4 MR. CAMPOLIETO: We can do that.

5 MR. SHIELDS: What I'm asking you  
6 to do is Officer Brodsky has two college  
7 degrees, he's a smart guy. I don't need  
8 you to help him answer questions, okay?  
9 This is his deposition.

10 MR. CAMPOLIETO: I have made no  
11 speaking objections. I have made  
12 objections to hypothetical questions that  
13 do not make any sense.

14 MR. SHIELDS: You cannot make any  
15 speaking objections because you're  
16 instructing him when --

17 (Multiple voices.)

18 MR. CAMPOLIETO: -- (inaudible.)

19 MR. SHIELDS: -- for  
20 clarification, and he's perfectly capable  
21 of doing that on his own.

22 MR. CAMPOLIETO: Move on with the  
23 deposition.

24 MR. SHIELDS: Okay, John, stop  
25 making improper objections.

1 P.O. Adam Brodsky

2 I'm sorry, Jeanine, can you read  
3 back my last question?

4 (Record read as requested.)

5 MR. CAMPOLIEITO: I renew my  
6 objection.

7 You can go ahead and answer.

8 A I oppose to the part where you say "in  
9 general," but yes, striking somebody above the  
10 clavicle can be considered a Level 4 technique.

11 Q Thank you.

12 And as we discussed earlier the use of  
13 force must be reasonable under the circumstances,  
14 correct?

15 A Correct.

16 Q And that's a law that you were taught at  
17 the academy?

18 A Correct.

19 Q And in your additional training with the  
20 RPD after you graduated from the academy?

21 A Yes.

22 Q And, um, can you just tell me, is there  
23 a requirement with the RPD for a certain amount of  
24 additional training, um, in a number of hours per  
25 year? In-service training is what I mean.

1 P.O. Adam Brodsky

2 A I wouldn't -- we have in-service  
3 training annually. I don't know what -- if there's a  
4 required amount of hours.

5 Q Okay. Are you required to do in-service  
6 training every year?

7 A Yes.

8 Q And do you have any idea how much  
9 in-house training you're required to do?

10 A No.

11 Q Um, since you've been with the RPD, has  
12 it changed over time?

13 A It's usually two or three times a year,  
14 I believe.

15 Q And when you say two to three times a  
16 year, how long are those trainings each time?

17 A It depends.

18 Q On average, would it be one day or one  
19 week or something else?

20 A If it's an in-service day where that's  
21 your scheduled workday, it would be one day.

22 Q Did you ever have like week-long  
23 in-service trainings?

24 A No.

25 Q So, um, would it be fair to say that

1 P.O. Adam Brodsky

2 it's about maybe three to four days every year?

3 A Yes.

4 Q Okay. Are there required topics for  
5 in-service training every year?

6 A I don't know.

7 Q For example, do you get firearms  
8 training every year?

9 A Yes.

10 Q Do you get other types of training every  
11 year or just firearms training?

12 A The firearms is the most consistent.

13 Q Are there any other specific types of  
14 training that you remember receiving every year since  
15 you began working with the RPD?

16 A Um, no. I -- firearms is the consistent  
17 one per year.

18 Q Um, do you know the other types of  
19 training, would it be, for example, maybe if the law  
20 changed on the topic, you'd get the training on that?

21 A That would mostly be done -- we have  
22 roll call trainings --

23 Q All right.

24 A -- where, um, the department might put  
25 together a PowerPoint to be done prior to our shift

1 P.O. Adam Brodsky

2 and gone over in our -- our platoon, if there's a  
3 change to a law like that. They probably wouldn't  
4 spend an entire day on it.

5 Q When you do a roll call training, is  
6 that something the entire department receives?

7 A I don't know.

8 Q Okay. How long would a roll call  
9 training last, like, for example, one hour, half a day  
10 or --

11 A No. They're meant to be 10 to 15  
12 minutes. Roll calls last 15 minutes.

13 Q Okay. When you go to those in-service  
14 trainings, do they give you handouts?

15 A Sometimes.

16 Q Do you save those handouts or course  
17 materials?

18 A I don't know if I have them or not.

19 Q There's no requirement that you save  
20 them?

21 A Correct.

22 Q What about roll calls, do they give you  
23 handouts or materials?

24 A I don't know.

25 Q Um, you said that they would do like a

1 P.O. Adam Brodsky

2 PowerPoint at the roll calls.

3 Um, are those PowerPoints accessible to  
4 you later if you had a question about them?

5 A Yes.

6 Q You say, Hey, Boss, like I wanted to  
7 review that PowerPoint we watched on Tuesday, can I  
8 see it again?

9 A No. They're usually put, um, on -- we  
10 have -- it's called the RPD Web.

11 Q It's like an internal server that you  
12 can access?

13 A A program, I guess, where it had -- it  
14 would have -- they would put that on there.

15 Q And is that accessible like only inside  
16 of police headquarters or can you access it when  
17 you're at home also?

18 A Um, I imagine you have to have -- I  
19 don't know. I access it at work.

20 Q Okay. Do you have your own work  
21 computer or is there like a library or something?

22 A Um, it -- they have review -- they have  
23 several computers throughout the office that everybody  
24 uses and shares.

25 Q Okay. So you don't have like an office

1 P.O. Adam Brodsky

2 like your own assigned computer?

3 A No.

4 Q Okay. Back to the matrix.

5 Once a suspect or an arrestee is, um,  
6 handcuffed and not resisting, are you allowed to use  
7 force against that person?

8 A So if a suspect is handcuffed and  
9 nonresistive, would you use force on them at that  
10 time? For what reason?

11 Q Legally based on your training and  
12 experience are you allowed to?

13 A So if somebody's standing there under  
14 arrest in handcuffs not resisting, I would not use  
15 force on them.

16 Q What about if they're on the ground and  
17 handcuffed and not resisting, um, under an officer's  
18 control, is it appropriate under any circumstances to  
19 use force against that person?

20 A So if somebody's in handcuffs laying on  
21 the ground not resisting?

22 Q Correct.

23 A Would you use force on them?

24 Q Correct.

25 A No.



1 P.O. Adam Brodsky

2 Q Would it ever be appropriate if somebody  
3 is handcuffed on the ground and not resisting to  
4 pepper spray them?

5 A If a person's handcuffed on the ground  
6 and not resisting would I pepper spray them, no.

7 Q And what if they were resisting, um, but  
8 they were, you know, under an officer's control in a  
9 mount position handcuffed behind their back, um, would  
10 it ever be appropriate to pepper spray them?

11 A I think that the question is, is why are  
12 they in a mount position, are they saying certain -- I  
13 think there's variables.

14 Q So under certain circumstances your  
15 testimony is that it might be appropriate to pepper  
16 spray them?

17 A Yes.

18 Q What circumstances might be appropriate  
19 to pepper spray somebody who's handcuffed behind their  
20 back in a mount position?

21 A If you're saying -- when you say "mount  
22 position," you mean the officer's on top of them  
23 mounted on them?

24 Q Correct, with their knees splayed on  
25 either side of their body.

1 P.O. Adam Brodsky

2 A And the person's face up or facedown?

3 Q Um, let's say facedown.

4 A Um, what would be -- when would you use  
5 pep -- I would say after kicking you, um, spitting on  
6 you, just to name two, I guess.

7 Q But if they're spitting on you, you  
8 could put a spit sock on their head, right?

9 A If I have one accessible right then and  
10 there.

11 Q Um, would it be, um, appropriate to use  
12 pepper spray in that circumstance simply to cause  
13 pain?

14 A I would not.

15 Q And you wouldn't do that because that  
16 would be a violation of your department's policies,  
17 right?

18 A I wouldn't do that because -- yes, it  
19 would be a violation of department policy and New York  
20 State.

21 Q When you say "New York State," you mean  
22 the law of the state of New York, correct?

23 A Well, Article 35 which governs our  
24 policy for use of force.

25 Q It would be a violation of, you know,

1 P.O. Adam Brodsky

2 case law that lays out the appropriate level of force  
3 that you can use against somebody also, correct?

4 A To pepper spray somebody to solely  
5 inflict pain, yes.

6 Q And did you ever learn specifically in  
7 your training that you're not allowed to use force  
8 against somebody who's handcuffed and not resisting?

9 A I think that would be -- I don't recall  
10 a specific time that somebody said that directly.

11 Q It would fall more under the category of  
12 you're only allowed to use reasonable force under the  
13 circumstances, correct?

14 A Yes.

15 Q With Level 4 force, you're only allowed  
16 to use deadly physical force if you're confronted  
17 yourself with deadly physical force by the subject; is  
18 that right?

19 MR. CAMPOLIETO: Objection.

20 A You, a third person, um, or something  
21 that can cause serious physical injury.

22 Q Okay. So, um, the general thing that  
23 you said, just to make sure I understood your answer  
24 is, the subject with themselves have to be causing or  
25 doing something that could cause either an officer or

1 P.O. Adam Brodsky

2 some other person serious physical injury, correct?

3 A Yes.

4 Q And if the subject is not doing  
5 something that could cause an officer or someone else  
6 serious physical injury, then it would be unlawful for  
7 the officer to use Level 4 force, correct?

8 A At the most simplistic level, yes.

9 Q All right. Let's move on to the date of  
10 the incident here.

11 Do you remember the date of the  
12 incident?

13 MR. CAMPOLIETO: Is this a good  
14 time to take a break, if I need a break?

15 MR. SHIELDS: Sure.

16 MR. CAMPOLIETO: Right, we'll be  
17 back.

18 MR. SHIELDS: 4:15?

19 MR. CAMPOLIETO: Yes, five  
20 minutes. Thank you.

21 (A short recess was taken at  
22 4:10 p.m. to 4:17 p.m.)

23 \* \* \*

24

25

1 P.O. Adam Brodsky

2 CONTINUED EXAMINATION

3 BY MR. SHIELDS:

4 Q Officer Brodsky, we just took a little  
5 break.

6 Did you have an opportunity to talk to  
7 your attorney during the break?

8 A Yes.

9 Q Are there any answers to any previous  
10 questions that you want to change your answer to?

11 A No.

12 Q Okay. All right. So getting back on  
13 the date of the incident now.

14 Um, do you remember the date of the  
15 incident in this lawsuit?

16 A Um, it would have been 2015.

17 Q If I said September 4, 2015, does that  
18 sound right to you?

19 A Yes.

20 Q And, um, at that time you were a field  
21 training officer, right?

22 A Correct.

23 Q And I guess so what I mean is, um, is  
24 that the correct term? You were -- you had a field  
25 training officer, right? You were a recruit?

1 P.O. Adam Brodsky

2 A Yes.

3 Q Okay. Is that the proper terminology?

4 You were a recruit and you had a field training  
5 officer?

6 A Yes.

7 Q Okay. Um, and who was your field  
8 training officer at that time?

9 A Officer Tim Dempsey.

10 Q So at that time you would have shared a  
11 car with Officer Dempsey?

12 A Correct.

13 Q Um, and on the night of the incident,  
14 um, before you responded to the scene, did you get a  
15 call over the radio or something else?

16 A I'm sorry. You're asking what I was  
17 responding to before the incident?

18 Q No, I'm sorry.

19 You went to the scene of this incident,  
20 correct?

21 A Correct.

22 Q How were you alerted to the facts, um,  
23 that this incident was occurring?

24 A Um, I remember officers loudly on the  
25 microphone stating there was injuries. Um, I think

1 P.O. Adam Brodsky

2 that's what alerted me to it.

3 Q Okay. So when you say "officers loudly  
4 on the microphone," do you mean over the radio?

5 A Yes.

6 Q And so you heard the officers themselves  
7 on the radio and you didn't hear it just thirdhand  
8 through dispatch; is that correct?

9 A From what I remember.

10 Q Okay. Do you remember what officers you  
11 heard over the radio?

12 A No.

13 Q Do you remember anything specifically  
14 that they were saying?

15 A No.

16 Q Um, what did you do when you heard the  
17 officers over the radio?

18 A I responded to that location.

19 Q And were you driving the car or was  
20 Dempsey driving the car?

21 A I believe I was driving.

22 Q Um, did you -- did you and Dempsey  
23 together make the decision to go to the scene or how  
24 did that happen?

25 A I don't remember. My guess is yes,

1 P.O. Adam Brodsky

2 because we went.

3 Q In general, you're the driver, but  
4 you're also the recruit?

5 A Right.

6 Q Under those circumstances, you know, can  
7 you make the decision to go to the scene or would that  
8 be something that you would kind of have to discuss  
9 with your field training officer?

10 A At that phase, it would probably be a  
11 brief discussion. I -- you're not running the car by  
12 yourself and making all the decisions.

13 Q And, um, let me just back up.

14 When you hear something over the radio  
15 like that, is it up to you to respond or like can you  
16 make the decision on your own? Let's say, you're not  
17 a field training office -- or you're not a recruit  
18 anymore. You're in your own car, you hear an officer  
19 over the radio, um, asking for help.

20 Do you personally make the decision to  
21 go to the scene or does someone else have to tell you,  
22 Hey, we need officers to go to the scene and ask you  
23 to go?

24 A It can happen both ways.

25 Q But here you think you and Dempsey



1 P.O. Adam Brodsky

2 decided to go to the scene?

3 A Yes.

4 Q Because you were in the area?

5 A It was our section, so you're always  
6 kind of in the area of the other cars that are in your  
7 section.

8 Q Okay. And, um, you were in Phase II of  
9 your field training at that point?

10 A Yes.

11 Q And what section were you assigned to?

12 A Central.

13 Q Okay. And did you have a computer in  
14 your car?

15 A Yes.

16 Q Would you have received any information  
17 about the incident on the computer?

18 A If I looked it up.

19 Q In general, when you respond to an  
20 incident, do you get information on the computer?

21 A It depends.

22 Q Okay. Um, when would you get  
23 information on the computer?

24 A If dispatch acknowledges -- puts me on  
25 the actual call for service.

1 P.O. Adam Brodsky

2 Q Okay. And would that be the, um, ECD or  
3 would that be something else?

4 A Yeah. The dispatcher and ECD.

5 Q So you hear the call, you respond to the  
6 scene, was this a priority one call?

7 A I don't know.

8 Q Did you show up with your lights and  
9 sirens?

10 A Yes.

11 Q And, um, do you remember if dispatch  
12 told you anything before you responded?

13 A I don't recall.

14 Q What do you remember knowing before you  
15 arrived at the scene?

16 A That there was an altercation where  
17 officers were injured.

18 Q So that's all that you knew before you  
19 showed up?

20 A Yeah -- yes.

21 Q Did you speak with any other officers,  
22 um, other than Dempsey before you arrived at the  
23 scene?

24 A No.

25 Q And what's the first thing you did when

1 P.O. Adam Brodsky

2 you pulled up to the scene?

3 A Exited my patrol car.

4 Q I'm sorry?

5 A Exited my patrol vehicle.

6 Q Okay. And then what did you do next?

7 A Um, I went over to where the suspect was  
8 on the ground on the sidewalk.

9 Q Tell me what you remember seeing when  
10 you exited your car and approached the sidewalk.

11 A Um, there were a couple of officers, um,  
12 where he was laying on the sidewalk. I remember  
13 seeing the one officer kind of rolling in pain --  
14 actually both of them.

15 Q And who were those officers?

16 A Officer Kester and Officer Drake.

17 Q Did you know Kester and Drake before  
18 this incident?

19 A Yes.

20 Q Did they work in your same section?

21 A Yes.

22 Q Did they ever do any training with you?

23 A No.

24 Q Like, um, by "training with you," I  
25 meant, um, like were they ever one of your instructors

1 P.O. Adam Brodsky

2 as you were a recruit?

3 A Not that I recall.

4 Q Because they weren't recruits at that  
5 time, right? They were -- they moved on from that  
6 phase?

7 A Correct.

8 Q Okay. What else do you remember seeing  
9 when you walked up to the sidewalk?

10 A That's pretty much it.

11 Q What other officers were on the scene  
12 when you arrived?

13 A I don't know.

14 Q And in addition to Kester and Drake, um,  
15 there was another officer with the subject, right?

16 A Yes.

17 Q Who was that?

18 A I don't know.

19 Q If I told you it was Officer Mitchell,  
20 would that refresh your recollection?

21 A He worked in the section. I believe he  
22 was working at that time, so that's possible.

23 Q Okay. And, um, do you remember who  
24 approached the sidewalk first, you or Dempsey?

25 A I don't know.

1 P.O. Adam Brodsky

2 Q And what did you do next after you  
3 walked up on the sidewalk?

4 A I kneeled down and placed my hand on the  
5 suspect's left shoulder, I believe.

6 Q Okay. And what did you do next?

7 A I assisted -- helped assist him to his  
8 feet.

9 Q Did you do anything between placing your  
10 hand on his left shoulder and assisting him to his  
11 feet?

12 A Not that I remember.

13 Q Okay. And how did you assist him to his  
14 feet?

15 A I put my, um -- I hooked my arm under  
16 his arm and lifted to put him back on his feet.

17 Q All right. Was he able to walk?

18 A Yeah.

19 Q So he was able to walk on his own  
20 without you holding him, you and other officers  
21 holding him?

22 A I -- I believe so.

23 Q You don't have an independent  
24 recollection as we --

25 A I remember help -- assisting him to his

1 P.O. Adam Brodsky

2 feet, and I didn't carry him to the nearby patrol car,  
3 so that leads me to believe under his own he moved to  
4 the patrol car.

5 Q Do you remember if you or any other  
6 officers asked him to stand up before you assisted him  
7 to his feet?

8 A Um, that would have been common  
9 practice.

10 Q And if he was able to stand on his own,  
11 would you have needed to assist him to his feet?

12 A Depends.

13 Q It would depend on, for example, if he  
14 was resisting?

15 A Sure. If he was complying or not.

16 Q Do you remember here if he was complying  
17 or not?

18 A Like I said, it would have been common  
19 to ask him to assist, to not have to lift him up, so  
20 my guess is he was not following the command to stand  
21 up.

22 Q And there's various reasons why he might  
23 not follow the command to stand up, correct?

24 A Sure.

25 Q One of those reasons could be that he

1 P.O. Adam Brodsky

2 was disobeying the command, correct?

3 A Correct.

4 Q One could be that he was physically  
5 unable to comply with the command, correct?

6 A Correct.

7 Q And here, do you know if he was  
8 physically able to comply with the command?

9 A I don't know.

10 Q So he might not have been able to  
11 physically comply with the command, correct?

12 A He might not have been able to  
13 physically comply with the command or he might not  
14 have just wanted to comply with the command, sure.

15 Q Um, but you don't remember, sitting here  
16 today, which one of those things it was, right?

17 A I wasn't there prior to, so I wouldn't  
18 have that knowledge.

19 Q Well, I mean, you helped him -- you  
20 assisted him to stand up, right?

21 A Correct.

22 Q And then you assisted him over to the  
23 police vehicle, correct?

24 A Correct.

25 Q And do you remember if you had to kind

1 P.O. Adam Brodsky

2 of support his weight as you assisted him over to the  
3 police vehicle?

4 A I don't remember.

5 Q And what happened next -- let me  
6 withdraw that.

7 Whose vehicle did you bring him over to,  
8 if you remember?

9 A I don't remember.

10 Q What's the next thing that happened when  
11 you got him over to the police vehicle?

12 A Um, I searched him.

13 Q Um, let me back up.

14 Prior to assisting him to his feet, um,  
15 was Mr. Vann searched?

16 A I don't know.

17 Q Do you remember searching him prior to  
18 him being brought to his feet?

19 A No.

20 Q Do you remember any other officer  
21 searching him before he was brought to his feet?

22 A I don't know if they did.

23 Q Okay. In your presence, you don't  
24 remember if they searched him or not?

25 A Correct.



1 P.O. Adam Brodsky

2 Q And so you brought him to the car and  
3 did you yourself perform the search?

4 A Um, there was another officer there, but  
5 I conducted the search, yes.

6 Q Okay. Who was the other officer?

7 A I don't know.

8 Q What was the other officer doing when  
9 you searched him?

10 A Holding him.

11 Q Okay. So there was one officer  
12 physically restraining Mr. Vann while you searched  
13 Mr. Vann, correct?

14 MR. CAMPOLIETO: Objection.

15 A I remember standing there, um, yeah,  
16 holding onto him.

17 Q Do you remember how the other officer  
18 was holding onto him?

19 A Um, I started searching him. I remember  
20 seeing the video, the other officer lifted his arms up  
21 leaning his body forward onto the patrol car.

22 Q And what part of his body was being  
23 leaned onto what part of the patrol car?

24 A It would have been his chest onto the  
25 area of the trunk.

1 P.O. Adam Brodsky

2 Q Do you remember that independently or do  
3 you remember that just because you recently watched  
4 the video?

5 A I remember that because I watched the  
6 video.

7 Q And, um, do you remember performing the  
8 search of Mr. Vann?

9 A Yeah.

10 Q Did you speak with him at all while you  
11 were performing the search?

12 A I don't remember.

13 Q Did you ask him if he had anything in  
14 his pockets?

15 A I don't remember.

16 Q Um, are you trained that when you search  
17 someone you're supposed to ask them if they have any,  
18 for example, needles or anything that could hurt you  
19 or poke you if you reached your hand into their  
20 pocket?

21 A Oh, you're trained to be cautious of  
22 items like that, but not necessarily to ask them.

23 Q In your practice when you search people,  
24 do you ask them if they have anything on them that  
25 they shouldn't have?

1 P.O. Adam Brodsky

2 A Not usually.

3 Q Um, so here you -- just to be clear, you  
4 don't remember whether or not you spoke with Mr. Vann  
5 as you were searching him, correct?

6 A I don't.

7 Q Do you remember when you arrived at the  
8 scene before you assisted him to his feet if any of  
9 the officers were speaking with Mr. Vann at all?

10 A I don't know.

11 Q Do you remember if Mr. Vann had the  
12 ability to speak at any point when you interacted with  
13 him on the night of the incident?

14 A Um, I do remember him speaking, yes.

15 Q What do you remember him saying?

16 A I don't know.

17 Q Was he being threatening at all?

18 A With his words?

19 Q Do you remember anything that he said?

20 A No.

21 Q And do you remember if he requested  
22 medical assistance?

23 A I don't know.

24 Q Do you remember if he said, for example,  
25 I did nothing wrong?

1 P.O. Adam Brodsky

2 A I don't recall.

3 Q When you performed your search, what did  
4 you find?

5 A I don't remember.

6 Q If you found anything, you would have  
7 written it down in the report, right?

8 A No.

9 Q If you found something, it would have  
10 been written by someone in a report, right?

11 A Not necessarily.

12 Q Um, is there a requirement to do like a  
13 property voucher when somebody is arrested?

14 A No.

15 Q So if someone has \$500 in their pocket  
16 and they're brought down to the precinct, that would  
17 be taken from them, correct?

18 A No. It would go with them.

19 Q So they would be brought to PSB and put  
20 in a cell, and they would have their money in their  
21 pocket?

22 A No.

23 Q Okay. So when they're brought to PSB,  
24 if they have money in their pocket, what happens?

25 A Um, usually any property that's removed

1 P.O. Adam Brodsky

2 from them will be with the officer who is taking them  
3 wherever they're headed.

4 Q And that property would be documented  
5 somewhere, what the officer had taken from them?

6 A Not necessarily.

7 Q Okay. All right. So let's back up to  
8 your search of Mr. Vann on the night of the incident.

9 Um, you don't remember finding anything  
10 illegal on him, correct?

11 A I don't remember.

12 Q If something illegal had been found on  
13 him, that would have been documented somewhere,  
14 correct?

15 A Um, it -- I don't know. I mean, I would  
16 have turned anything I found over to the arresting  
17 officer, and if they chose to charge him with it,  
18 that's at their discretion.

19 Q If he had a gun, you know, that would  
20 probably be documented somewhere, right?

21 A I would say so.

22 Q And if he had drugs, that would probably  
23 be documented somewhere?

24 A That depends.

25 Q Okay. Are there instances where you

1 P.O. Adam Brodsky

2 find someone with illegal drugs on them and you don't  
3 document it, and you just take the drugs?

4 A No.

5 Q So it should be probably be documented  
6 somewhere, right?

7 A I -- yes.

8 Q So the fact that -- if I represent to  
9 you that that wasn't documented anywhere in this case,  
10 that'd mean you probably didn't find anything on him  
11 of an illegal nature, drugs, guns when you searched  
12 him, right?

13 A I have no control over what -- after I  
14 turn over property to an officer, and I'm no longer  
15 involved in the case --

16 Q Yeah.

17 A -- I have no idea what they do, what  
18 they don't do with property, what they document, what  
19 they don't document. I can only tell you what I do.

20 Q Sure. And here, if you had found  
21 something like a gun, that'd probably jump out at you,  
22 right?

23 A Yeah, if he had a gun, I would remember.

24 Q So it's pretty safe to say that he  
25 didn't have a gun here, right?

1 P.O. Adam Brodsky

2 A I don't believe he had a gun, correct.

3 Q Okay. Um, so you searched Mr. Vann, you  
4 don't find a gun, and then what happens next?

5 A I believe another officer places him in  
6 a patrol car.

7 Q What did you do after he was placed in  
8 the patrol car?

9 A Nothing of importance.

10 Q Well, that's why we're here, to figure  
11 out if there is anything important.

12 Um, so what's the next thing that you  
13 did? Did you remain at the scene for some period of  
14 time?

15 A I mean, I -- I remember being there for  
16 maybe a couple of minutes and then we left.

17 Q So when you say you were there for a  
18 couple minutes "and then we left," so you and Dempsey?  
19 Is that what you mean? You left with your field  
20 training officer?

21 A Yes.

22 Q And when you say a "couple of minutes,"  
23 do you mean two or do you mean 20?

24 A I don't know.

25 Q Do you have an independent recollection

1 P.O. Adam Brodsky  
2 of how long you remained at the scene after Mr. Vann  
3 was placed in the car?

4 A From what I remember, it didn't seem  
5 like a significant amount of time.

6 Q Did you speak with any officers while  
7 you were at the scene after Mr. Vann was placed in the  
8 car?

9 A If I did, I don't recall.

10 Q Did you speak with any witnesses after  
11 Mr. Vann was placed in the car?

12 A No.

13 Q Okay. Um, where did you go after you  
14 left the scene with Dempsey?

15 A I don't recall.

16 Q Did you go to the hospital and speak  
17 with any of the injured officers?

18 A No.

19 Q Okay.

20 A I don't recall, I guess.

21 Q Okay. I just want to -- I'm going to  
22 put up an exhibit and I'm just going to ask you, um,  
23 to tell me what it means because I'm not sure.

24 MR. SHIELDS: I think that his  
25 is -- so, Jeanine, this will be, I guess,



1 P.O. Adam Brodsky

2 Exhibit 1, and I believe that this is  
3 what you call the ECD printout from this  
4 case. Um, let's see. I'm dealing with  
5 new technology that I think I know how to  
6 use. Um, all right.

7 (ECD printout, was received  
8 and marked as Plaintiff's Exhibit 1  
9 for Identification, as of this date.)

10 Q Officer Brodsky, are you seeing what  
11 looks to be an ECD printout (screen sharing)?

12 A (Viewing.) Yes.

13 Q And it says -- can you see my mouse  
14 moving around on the screen (indicating)?

15 A Yep.

16 Q Okay, great. And does this say here,  
17 "Search parameters, incident number, CTY152473876"  
18 (indicating)?

19 A Yes.

20 Q Okay. So I'm just going to go through  
21 this, um, and just ask you some questions about it,  
22 okay?

23 So this says, "2320, entry,  
24 complaint [sic] having problem with male who has been  
25 hanging around the store all day - refusing to leave,

1 P.O. Adam Brodsky

2 black male LSW black jacket and gray hoodie."

3 Is that what that says?

4 A Yes.

5 Q "LSW," is -- what is that, long-sleeved  
6 shirt or something?

7 A Last seen wearing.

8 Q Last seen wearing, okay. Thank you.

9 And then if we go down here, I'm just  
10 going to ask about some of these codes because I don't  
11 know what they mean, okay (indicating)?

12 A I'll do my best. I don't know that I  
13 know it -- all of these either.

14 Q "DISPER," does that mean -- do you know  
15 what that means?

16 A I believe that is the person who is  
17 dispatched to it.

18 Q Okay. And then "209A," is that the car  
19 number or something else?

20 A That would have been his call sign for  
21 the day.

22 Q His call sign?

23 A It might not match up with the car  
24 number he's driving.

25 Q Okay. So the cars have like on their

1 P.O. Adam Brodsky

2 license plate a number. That number here, would that  
3 not necessarily match up with the license number,  
4 correct (indicating)?

5 A Correct.

6 Q Okay. And then this number right here,  
7 "182230" [sic], is that like his assigned officer  
8 number (indicating)?

9 A Correct.

10 Q Okay. And this says "Jeffrey Kester,"  
11 right?

12 A Yes.

13 Q Okay. So this means that Officer Kester  
14 was assigned to this incident by the dispatcher?

15 A Right.

16 Q Okay. And then we go down. Do you know  
17 what "ASNCAS" means?

18 A No.

19 Q Okay. And then it says "209A," so  
20 that's Kester that it's referring to apparently?

21 A That's what?

22 Q So that would be -- if this is the same  
23 assigned number for Kester, this entry here -- I'm  
24 sorry, this entry here, "209A," would also refer to  
25 Officer Kester (indicating)?

1 P.O. Adam Brodsky

2 A Yes.

3 Q Okay. And then the one below that says  
4 "ASSTER" and then "D29D."

5 Um, does this mean assister?

6 A He's like an assisting officer, yes.

7 Q So that's Steven Mitchell, right?

8 A Yeah.

9 Q And then after that, it's "A-S-S-T-O-S."  
10 Would that also mean an assisting  
11 officer?

12 A Correct.

13 Q Okay. And then it says "D," it looks  
14 like "09D," and then it says "Matthew Drake"?

15 A Correct.

16 Q So basically Mitchell and Drake were the  
17 assisting officers that showed up on the scene, is  
18 what this means, right?

19 A Um, anybody who shows up after the first  
20 initial dispatch is going to be labeled an assisting  
21 officer.

22 Q Okay. All right. So that was between  
23 2320 and 2321, right?

24 So then we go down, it says, "On scene  
25 D29D, on scene 209A." That's just when those officers

1 P.O. Adam Brodsky

2 arrived, right?

3 A Correct.

4 Q And how does that get input into the  
5 system? Do they like call in on the radio and say,  
6 I'm here?

7 A It could be done that way.

8 Q How else could it be done?

9 A They manually input it.

10 Q Okay. On a computer or something?

11 A Correct.

12 Q In their car?

13 A Right.

14 Q Okay. All right. And so next,  
15 "Misc, D09D." Okay. So now this says, "Boss for  
16 SSR -- SRR -- ambulance for broken ankle for officer."  
17 That's at 2328.

18 So about seven minutes after he arrives  
19 at the scene that call is made? Does that look right  
20 to you?

21 A "On scene 2223 [sic]," 22 -- about five  
22 minutes.

23 Q Five minutes, okay.

24 Um, and then this says "Assister,  
25 Jeffrey LaFave."

1 P.O. Adam Brodsky

2 Um, this right here, does that mean, um,  
3 that LaFave arrived, Sergeant LaFave, on the scene at  
4 that time or does that mean that he said, I'm going to  
5 go there at that time (indicating)?

6 A It's hard to say. I mean, I believe  
7 that's him saying that he's going to head there.

8 Q Because they're asking for a boss,  
9 right --

10 A Right.

11 Q -- and he responds immediately?

12 Okay. And that would be something done  
13 over the radio?

14 A Yes.

15 Q Okay. Do you remember hearing that at  
16 all?

17 A I don't recall the exact wording of what  
18 I heard on the radio that night.

19 Q Okay. Um, so LaFave and then  
20 David Kephart, um, also responds also at 2328, um, and  
21 then it says, "Miscellaneous, more cars, second rig."

22 So that's asking for additional  
23 officers, correct?

24 A Yeah. He's asking that more cars are  
25 needed to control the subject is why you would ask for

1 P.O. Adam Brodsky

2 that, and then another ambulance in addition to the  
3 one I already requested.

4 Q Okay. So to control the subject that'd  
5 be the reason to ask for more officers?

6 A I mean, the situation is still not in  
7 control and they need more officers to help handle the  
8 situation.

9 Q Okay. And then the next one is  
10 "Assister, 229A." And that's you, right, Adam Brodsky  
11 and Timothy Dempsey?

12 A Correct.

13 Q And is there only one number because you  
14 were in the same car?

15 A Right.

16 Q Okay. All right. And then after that,  
17 additional officers are responding, right? And then  
18 it says at "2329, need a second rig now per DO9D."

19 So this is one of the officers asking  
20 for a second rig?

21 A I thought they already did. I don't  
22 know why that's in there again. I don't know what the  
23 reasoning for that is.

24 Q And when they say "rig," does that mean  
25 ambulance?

1 P.O. Adam Brodsky

2 A Yes.

3 Q All right. So these are additional  
4 officers, and eventually at 2330 it says, "Cars can  
5 slow it down."

6 Does that mean that the situation would  
7 have been under control at that point?

8 A It would have meant that there's enough  
9 officers on scene that anybody else responding doesn't  
10 need to be responding lights and sirens.

11 Q Got it. So this is page 2. All right.  
12 We don't need to go through everything.

13 But in general it says, Two injured  
14 officers, one possibly with a broken ankle, one with a  
15 dislocated shoulder.

16 Um, and then if you go down, it says  
17 "Daniel Zimmerman, Sergeant," Daniel Zimmerman was  
18 responding and assisting, right? Um, and then it  
19 says -- at 2345, it says, "SUPP, text, third ambulance  
20 will be for suspect for eyewash and lacerations" --

21 (Reporter clarification.)

22 Q It says "SUPP." What would SUPP mean,  
23 if you know, support?

24 A My guess it would be supplemental.

25 Q Okay. And it says, "Text, third



1 P.O. Adam Brodsky

2 ambulance will be for a suspect - eyewash and  
3 lacerations to the head," right?

4 A Right.

5 Q So after there were two ambulances  
6 called for the officers? There was one called for  
7 Mr. Vann, right?

8 A Based on that previous page, I don't  
9 know if that other transmission asking for that second  
10 one was the third one, or if this was just to clarify  
11 or if that was duplication and then this is when the  
12 third one is being requested.

13 Q Okay, thank you.

14 Um, and then at 0000, so that would be  
15 midnight, right?

16 A Right.

17 Q It says, "Assist, 1219A, [sic]" in  
18 brackets, "Highland Hospital, McGraw, Eric with an  
19 injured officer," right?

20 So what's that mean?

21 A Um, my guess would be that  
22 Officer McGraw was at Highland Hospital with an  
23 injured officer.

24 Q So whichever officer was transported to  
25 Highland, McGraw went there with them?

1 P.O. Adam Brodsky

2 A I don't know how he did it. I don't  
3 know if he took him, he met him there -- well, he was  
4 taken by ambulance, so I -- I don't know how that  
5 played out.

6 Q Okay. And then these ones say "RGH" and  
7 it says "Joseph Laiosa."

8 Did I say that right?

9 A Correct.

10 Q And then "Isaac Armstrong, RGH"?

11 A Right.

12 Q And do you know -- does that mean that  
13 they went to Rochester General Hospital with injured  
14 officers?

15 A I don't know.

16 Q Okay. And then if we go down here, it  
17 says "RGH" again at 0033, and then at 0039 it says you  
18 and Officer Dempsey, um, are listed.

19 Do you have any idea what that entry  
20 means (indicating)?

21 A No.

22 Q Okay. It doesn't mean that you went to  
23 Rochester General Hospital?

24 A No.

25 Q Okay. Do you remember going to the

1 P.O. Adam Brodsky

2 hospital at all that night?

3 A No.

4 Q Okay. Is it possible that you went to  
5 the hospital that night?

6 A I don't remember going to the hospital  
7 that night.

8 Q Okay. Because you weren't injured,  
9 right?

10 A I wasn't injured, no.

11 Q Okay. And you don't remember going  
12 there and speaking with either Kester or Drake, right?

13 A Correct.

14 Q I think that's all my questions for  
15 that. And I spent way too long earlier today figuring  
16 out trying to stop share so that it didn't -- ten  
17 minutes doing it right there. All right. Um, so just  
18 going back to when you, um, arrived at the scene.

19 Now that we went through the order of  
20 the officers, do you remember if when you arrived at  
21 the scene Officer Mitchell had Mr. Vann controlled on  
22 the ground when you arrived?

23 A I don't know.

24 Q Do you remember when you arrived, um,  
25 that my client was on the ground?

1 P.O. Adam Brodsky

2 A Yes.

3 Q And was there an officer with him?

4 A Yes.

5 Q Where was that officer positioned?

6 A Um, maybe like the midsection of your  
7 client.

8 Q Okay. Do you remember anything that my  
9 client was doing?

10 A No.

11 Q All right. Let me see if I can do this  
12 again. I'm going to share my screen again. Let me  
13 see here and see if I can figure this out.

14 Okay. Officer Brodsky, are you seeing  
15 the video on pause right now with "cam4" down here in  
16 the bottom left corner (indicating)?

17 A Yes.

18 Q Is that all that you see or do you see  
19 my documents and stuff, too?

20 MR. CAMPOLIETO: No, it's just  
21 the screen and the video.

22 MR. SHIELDS: Okay, great. I  
23 have three screens here, and it looks  
24 like I did it right.

25 Q Okay. And would it be accurate to say

1 P.O. Adam Brodsky

2 that the timestamp in the top right says "9/4/2015,  
3 11:42:46 p.m."?

4 A Correct.

5 Q And we don't need to get into it, but  
6 there is testimony about the times being a little off  
7 on this video, so I'm not going to make any  
8 representations about actual objective time, but I'm  
9 just going to ask you questions about the video, okay?

10 A Okay.

11 Q So right now we see -- well, let's see.  
12 I'm just going to play the video from here. Um, on  
13 the very bottom left, I'm starting it at 9:18 into the  
14 video on cam4.

15 MR. SHIELDS: So I guess for the  
16 record, um, we'll call this Exhibit 2,  
17 um, and then we'll figure out how to, you  
18 know, include it afterwards, okay?

19 (Video, was deemed marked as  
20 Plaintiff's Exhibit 2, for  
21 identification, as of today's date.)

22 Q So I'm just going to hit play and then  
23 I'll ask you some questions, okay?

24 Oh, before I hit play, do you know who  
25 this officer is (indicating)?

1 P.O. Adam Brodsky

2 A No.

3 Q Do you recognize him based on this  
4 video?

5 A No.

6 Q Okay.

7 (Video played.)

8 Q Okay, great. It's going a little  
9 choppy. Um, if I pause it right there, do you know  
10 who this officer is (indicating)?

11 (Video paused.)

12 A It looks kind of like Officer Kephart.

13 Q So that might be Kephart?

14 A Right.

15 Q Okay. Which would make sense based on  
16 the order of the ECD that we looked at, right?

17 A I don't -- was his name listed there as  
18 well?

19 Q I believe so, but we can -- it's not  
20 important. I'm just going to keep doing that, okay,  
21 asking you questions as I play the video and pause it.

22 (Video played.)

23 Q All right. So a couple more cars show  
24 up now, right? Here's a car right here (indicating).  
25 I'm going to pause it.

1 P.O. Adam Brodsky

2 As I paused it, do you know if this is  
3 your car?

4 A I don't know.

5 Q Okay.

6 (Video played.)

7 Q We see one officer get out of the car  
8 and come over to where the one that we think Kephart  
9 is who came back, the original officer on the scene  
10 with my client, right? So they're all there. We're  
11 paused at 9:41 into the video, and I'll hit play.

12 (Video played.)

13 Q Do you know if the officer that exited  
14 the driver's side of that vehicle is you?

15 A Yeah. That looks like me.

16 Q Okay. So that's you.

17 So the other officer that exited the  
18 vehicle would have been Dempsey, correct?

19 A Correct.

20 Q Okay. So on the scene right here, you  
21 think we've got you, Officer Dempsey, Officer Kephart,  
22 and then whatever officer was there before you  
23 arrived, correct (indicating)?

24 A Right.

25 Q Okay. And I'm just going to represent

1 P.O. Adam Brodsky

2 to you that that's Mitchell, okay?

3 A Okay.

4 Q So you got the four of you right here,  
5 and you got my client on the ground, right  
6 (indicating)?

7 A Right.

8 Q Okay. So I'm going to hit play again.  
9 (Video played.)

10 Q Now, did you see that when I hit play at  
11 9:45 -- or I'm sorry, I think it was 9:48 -- 7 into  
12 the video, and I paused at 9:48, they just flipped him  
13 over. Does that look like what just happened?

14 A I saw movement. I don't know.

15 Q Okay. So let me just -- I'm just going  
16 to rewind that for a second and then I'm going to let  
17 it go for a little bit, okay?

18 (Video rewind and played.)

19 Q So I rewind that to 9:40, okay? Um,  
20 let me just rewind it a little bit more, just to get  
21 to, um, when you guys pull up and exit the car, okay?

22 (Video rewind and played.)

23 Q Now, I want you to look at -- I'm sorry.  
24 I'm going to rewind that again.

25 (Rewinding video.)



1 P.O. Adam Brodsky

2 Q I want you to look at my client, um,  
3 until the time that you approach, and tell me, um, if  
4 it looks like he's actively resisting at all, okay?

5 (Video played.)

6 Q Does it look like he was actively  
7 resisting at all?

8 MR. CAMPOLIETO: Objection.

9 A I don't know.

10 Q All right. So you don't know or no?

11 A I don't know if he's actively resisting  
12 based on this.

13 Q Okay. Did it look like he was kicking?

14 A His feet didn't look like they were  
15 moving around that much.

16 Q Did it look like he was trying to stand  
17 up?

18 A I don't know.

19 Q Did it look like his hands were  
20 handcuffed behind his back?

21 A I don't know.

22 Q All right. Let's rewind it one more  
23 time and see what you think. Okay. Yeah, let's  
24 rewind it a little further. Um, okay.

25 (Video rewound and played.)

1 P.O. Adam Brodsky

2 Q So I'll just represent to you that  
3 that's Officer Drake, and this is Officer Mitchell,  
4 okay? I'm going to start -- it's paused at 9:06 into  
5 the video. I'm going to hit play.

6 (Video played.)

7 Q All right. Now, I'm going to pause it  
8 at 9:12 into the video.

9 Did it look like Mr. Vann was, um,  
10 fighting the officers or resisting at all in those six  
11 seconds?

12 A I don't know.

13 Q You don't know or no?

14 A I don't know. I don't know what's  
15 happening at that time.

16 Q Okay. Is my client moving at all?

17 A His left leg is coming up a little bit  
18 and I don't know if he's trying to move his upper body  
19 or not.

20 Q Okay. So let's just back up again and  
21 let's watch that again, all right?

22 (Video rewind and played.)

23 Q Now, at that point is Officer Mitchell --  
24 I'm just going to represent to you that that's  
25 Officer Mitchell -- on top of him holding him down

1 P.O. Adam Brodsky

2 with his hands and maybe his knee and his back right  
3 here (indicating)?

4 MR. CAMPOLIETO: Objection.

5 A I think that's what they're attempting  
6 to do right there.

7 Q All right. So I'm just going to go for  
8 it again, okay?

9 (Video played.)

10 Q And now, right there, since we last  
11 paused, it looks like Officer Mitchell rolled my  
12 client over from his stomach to his back; is that  
13 right?

14 MR. CAMPOLIETO: Objection.

15 A Um, I don't know if that's what he did,  
16 or he was moving that way and he went with him, or if  
17 he tried to turn that way. I don't know.

18 MR. SHIELDS: Okay. And, John,  
19 I'm going to tell you, you've got to stop  
20 these crazy objections. I'm asking, What  
21 did you see in the video, and then --

22 MR. CAMPOLIETO: You phrased the  
23 question a certain way that the officer  
24 did something. I objected as improper.  
25 I'm not going to stop objecting.

1 P.O. Adam Brodsky

2 MR. SHIELDS: Okay. Did the  
3 officer roll him over? It's a yes or no  
4 question, John? You don't need to --

5 MR. CAMPOLIETO: You didn't say,  
6 Did the officer roll him over? You --

7 MR. SHIELDS: Yes or no.

8 (Multiple voices.)

9 MR. SHIELDS: Like we just said,  
10 Officer Brodsky is a smart guy. He's got  
11 two college degrees. He doesn't need --

12 MR. CAMPOLIETO: He is a smart  
13 guy, but that doesn't mean that I'm not  
14 here to do my job and to object, and I  
15 will continue to object.

16 MR. SHIELDS: Okay, John. And  
17 you know, that could cause a problem with  
18 the transcript. We're wasting time right  
19 now. And, you know, I'm just going to  
20 ask you to let him answer my questions  
21 which are not objectionable, okay?

22 MR. CAMPOLIETO: He's going to  
23 answer your questions, but if I have an  
24 objection, I'm going to object, and I  
25 object to that question.

1 P.O. Adam Brodsky

2 MR. SHIELDS: John, okay. You've  
3 got to stop making unobjectionable --  
4 objections to unobjectionable questions,  
5 okay? All right.

6 (Video played.)

7 Q All right. During that entire time that  
8 we just played the video, we're now paused at 9:42 on  
9 the bottom right -- I mean, the bottom left of the  
10 video at 9:42 into the video, and 11:43:06 at the top  
11 right, did it look like Mr. Vann was fighting with  
12 Officer Mitchell at all?

13 A What do you mean by fighting?

14 Q You know, was he trying to strike  
15 Officer Mitchell in any way?

16 A He was -- I don't believe he was trying  
17 to hit him with his hands. Um, his feet were moving.  
18 I don't know if they were intended to kick him or not.

19 Q His legs were going back and forth  
20 slowly, correct?

21 A Yes.

22 Q And did it look like he was trying to  
23 stand up?

24 A I don't know.

25 Q Okay. Um, and did it look like he was

1 P.O. Adam Brodsky

2 trying to resist Officer Mitchell in any way?

3 A I don't know.

4 Q Okay. And now I'm going to hit play  
5 again at 9:42 into the video or 11:43:06 in the top  
6 right.

7 (Video played.)

8 Q All right. So I'm going to pause, it's  
9 9:51. And it looks like you testified earlier it was  
10 you, Officer Dempsey, Officer Kephart, and I told you  
11 this is Mitchell.

12 It looks like you've all got Mr. Vann  
13 face down on the ground, right?

14 A Yes.

15 Q Okay. And I'm going to hit play again  
16 at 9:51 on the bottom left and 11:43:14 on the top  
17 right.

18 (Video played.)

19 Q And I know it's a bad camera angle, but  
20 do you know who this officer is who just walked onto  
21 the video (indicating)?

22 A I believe it's Sergeant Lafave.

23 Q Okay. Okay, Lafave, all right. I will  
24 hit play again.

25 (Video played.)

1 P.O. Adam Brodsky

2 Q All right. Did you see -- I think you  
3 said this is Kephart just throwing something, and it  
4 looks like it landed on Officer Lafave's shoe?

5 A No.

6 Q Okay. I'm going to just rewind it real  
7 quick and ask that you watch what Officer Kephart is  
8 doing, okay?

9 A Okay.

10 (Video played.)

11 Q Do you see him throw something right  
12 there (indicating)?

13 A Yeah.

14 Q Okay. Does that look like he's  
15 searching him?

16 A Um, I don't know.

17 Q It looks like -- I'm just going to pause  
18 at 10:18 on the bottom right, 11:43:36 on the top --  
19 I'm sorry. 10:18 on the bottom left and 11:43:36 on  
20 the top right.

21 In general, does it look like you and  
22 Dempsey and maybe Mitchell are holding him down while  
23 Kephart is searching him?

24 A I don't remember what he was doing at  
25 that time.

1 P.O. Adam Brodsky

2 Q But in general, Kephart's doing  
3 something different than the rest of you guys?

4 A It appears so.

5 Q Okay. Did he just throw something else  
6 there?

7 A Correct.

8 Q Okay. All right. And now it looks like  
9 Kephart stood up and moved away a little bit, and it  
10 looks like there's Mitchell, then you kind of  
11 dragging -- you had to drag my client to his feet; is  
12 that fair to say?

13 A No.

14 Q All right. Let's back that up just a  
15 little bit.

16 A I oppose to the language. You know, we  
17 lifted him to his feet. I wouldn't say we dragged him  
18 to his feet.

19 Q Okay, lifted him. All right. Let's  
20 just kind of look at that again.

21 In looking at this picture again -- I'm  
22 sorry, you said that you think that's Lafave?

23 A Yes.

24 Q Now that you see his face, do you think  
25 that's Lafave?



1 P.O. Adam Brodsky

2 A Yes.

3 Q Okay, thank you.

4 (Video played.)

5 Q All right. And so I'm just going to  
6 pause.

7 (Video paused.)

8 Q For the record, it looks like Kephart  
9 stands up at 10:26 into the video on the bottom left,  
10 and 11:43:42 on the top right.

11 And then it looks like -- now, at that  
12 point I'm going to pause at 10:32 on the bottom left  
13 and 11:43:48 on the top right. It looks like Mitchell  
14 is kind of -- now, I say drag because he's pulling my  
15 client's body while his feet are dragging along the  
16 ground a little bit; is that fair to say?

17 MR. CAMPOLIETO: Objection to the  
18 use of a freeze-frame here. I mean, you  
19 can freeze it at any point. I'm going to  
20 object to the use of the freeze-frame to  
21 ask these questions. The officer can  
22 answer, but the freeze-frame is  
23 objectionable.

24 MR. SHIELDS: Sure. That's fair,  
25 John. Let me withdraw that question.

1 P.O. Adam Brodsky

2 Q And in this picture my client's legs are  
3 extended and Officer Mitchell looks like he's holding  
4 him by his shoulder and arm or his upper torso?

5 A Okay.

6 Q Okay. So yes, you agree that that's  
7 what that depicts?

8 A I don't know what he's holding him by or  
9 anything like that.

10 Q So we're going to go 10:32 and we're at  
11 11:43:48. I'm going to hit play again.

12 (Video played.)

13 Q All right. And so between when we were  
14 paused and now when we're paused again at 10:38 on  
15 bottom left and 11:43:52 on the top right, that's when  
16 you assisted my client to his feet, correct?

17 A Correct.

18 Q And can you describe how you assisted  
19 him to his feet?

20 A I hooked my arm under his arm and lifted  
21 upwards.

22 Q Did it look like he used any of his own  
23 muscle force to stand with his own legs?

24 A No.

25 Q I'm sorry. And I'm hitting play again

1 P.O. Adam Brodsky

2 at 10:38, and the video is choppy, so now I paused it  
3 again at 10:41 at the bottom and 11:43:55 in the top  
4 right, and it looks like you guys are now bringing him  
5 over to the car, right?

6 A Right.

7 Q Okay. I'm going to hit play again.

8 (Video played.)

9 Q All right. And I'm going to hit pause  
10 right there at 10:49 on the bottom left and 11:44:02  
11 on the top right.

12 And did you see, um, it looks like  
13 Officer Mitchell opened the door to the car?

14 A Yep.

15 Q But then Mr. Vann wasn't put directly in  
16 the car, correct?

17 A Right.

18 Q Do you know why he wasn't put directly  
19 in the car?

20 A Um, based on what happens next, probably  
21 to conduct a thorough search of his person before  
22 putting him in the car.

23 Q So you don't think that you did a  
24 thorough search on the ground over here before you  
25 picked him up (indicating)?

1 P.O. Adam Brodsky

2 A In my opinion, I don't think it's  
3 possible to do a thorough search of something when  
4 they're on the ground like that.

5 Q Okay. So we're paused at 10:49 on the  
6 bottom left and 11:44:02 on the top right, and I'm  
7 going to hit play again, okay?

8 (Video played.)

9 Q All right. So I'm just going to pause  
10 it right here. It's 11:01 on the bottom left and  
11 11:44:11 on the top right.

12 (Video paused.)

13 Q Um, do you see it looks like  
14 Officer Mitchell is holding Mr. Vann's arms above his  
15 head?

16 A I don't see that.

17 Q Okay. What do you see?

18 A Um, all of our tiles are in the way.

19 Q All of your tiles are in the way?

20 A Yeah, all of our pictures are blocking  
21 that.

22 Q Do you see -- what's this look like to  
23 you right here (indicating)? And I'm circling my  
24 mouse around.

25 A Our pictures have to be moved so I can

1 P.O. Adam Brodsky

2 see it, our video screens.

3 Q I don't know what you mean.

4 Are you looking at the video still?

5 A Yes.

6 Q Oh, you want me to hit play; is that  
7 what you're saying?

8 A No, no. We're minimized on the side or  
9 my video --

10 Q You don't see the portion of the video  
11 that depicts --

12 A You're moving it, so I can know.

13 Q Oh, okay. All right. So now can you  
14 see you and Officer Mitchell and my client against the  
15 side of the car?

16 A Yes.

17 Q Okay. And let me just -- if you didn't  
18 see that part of the video, let me just back up a few  
19 seconds, okay?

20 A Okay.

21 Q So now we backed up to 10:51, so ten  
22 seconds on the bottom left, 11:44:04 on the top right.

23 At this point, it looks like Mr. Vann is  
24 kind of standing up straight. You can see his head  
25 here; is that right (indicating)?

1 P.O. Adam Brodsky

2 A Right.

3 Q Now I'm going to hit play.

4 (Video played.)

5 Q All right. Now I'm going to hit pause  
6 at 10:56 on the bottom left, 11:44:08 on the top  
7 right.

8 Does it look like Mitchell grabbed his  
9 hands which were handcuffed behind his back and pulled  
10 him up above his head?

11 MR. CAMPOLIETO: Object to the  
12 use of the freeze-frame video, but he can  
13 answer.

14 MR. SHIELDS: Well, John, just,  
15 you know, to respond to your objection, I  
16 played the video and I asked what he saw  
17 in the video, not the freeze-frame.

18 A Yes.

19 Q Okay. And can you put your hands above  
20 your head like that behind your back?

21 A I don't know.

22 Q Have you ever tried to, you know, close  
23 your arms like this and go like that (indicating)?

24 A I -- I don't think I've ever been  
25 handcuffed and put in that position. I don't know if

1 P.O. Adam Brodsky

2 I can do it like that.

3 Q Um, is that something that you were  
4 trained to do at the academy?

5 A I don't know. I don't remember -- we  
6 didn't -- we didn't put people against the car like  
7 that. There's certain things that I've trained in the  
8 academy that you can't replicate when you're on --  
9 in -- on the street because we didn't search -- go  
10 over searching somebody against a car like that.

11 Q And, um, do you know why  
12 Officer Mitchell put his arms like that above his  
13 head?

14 A You'd have to ask him.

15 Q Do you think it helped you conduct your  
16 search?

17 A Yes.

18 Q Was my client actively resisting when  
19 you brought him over to the car?

20 A When we walked to the car?

21 Q Correct.

22 A No.

23 Q Was my client actively resisting when  
24 you first tried to put him inside the car and decided  
25 not to?

1 P.O. Adam Brodsky

2 A Um, I don't recall.

3 Q Was my client actively resisting  
4 immediately before Officer Mitchell placed his arms  
5 above his head?

6 A You'd have to ask him.

7 Q Okay. Let's just, um, rewind a second,  
8 look at the video and you can tell me what you see,  
9 okay?

10 (Video rewound and played.)

11 Q So I rewound it to 10:39 on the bottom  
12 left and 11:43:53 on the top right, okay? And I'm  
13 going to hit play.

14 (Video rewound and played.)

15 Q Now I'm just going to pause because I  
16 have a question before that. As you're walking him --  
17 I want to go back to 10:49. All right, I -- it's hard  
18 to do that, so at 10:36.

19 (Video played.)

20 Q Can you tell me what you see, as you  
21 walk him over to the car, can you tell me what you see  
22 my client's head doing, okay? And I'm going to hit  
23 play.

24 (Video played.)

25 Q 10:36 on the bottom left, 11:43:51 on



1 P.O. Adam Brodsky

2 the top right.

3 (Video played.)

4 Q And now I'm going to pause at 10:44 on  
5 the bottom left and 11:43:57 in the top right.

6 Does it look like his head was down and  
7 bowed kind of as you walked him over?

8 A It looked like initially he was leaning  
9 forward and then he stood up straight when we got  
10 closer to the car.

11 Q Okay. It didn't look like he was trying  
12 to run away or anything, right?

13 MR. CAMPOLIEITO: Objection.

14 A I don't believe so.

15 Q You don't remember him ever trying to  
16 run away or fight you, right?

17 A Right.

18 Q So now I'm going to hit play at 10:44 on  
19 the bottom left to 11:43:57 in the top right, and I'm  
20 going ask you to watch my client and try to see if it  
21 looks like he's resisting or fighting in any way,  
22 okay?

23 (Video played.)

24 Q All right. I'm pausing it at 10:56 in  
25 the bottom left, 11:44:08 in the top right.

1 P.O. Adam Brodsky

2 In that period that we just played, did  
3 it look like he was resisting or fighting in any way?

4 A I don't know.

5 Q Okay. You don't know or no?

6 A It's something that -- you're asking me  
7 what another officer's perspective is of something.

8 Q Oh, no. I'm asking you, you know, what  
9 you remember at the time of the incident and with your  
10 recollection refreshed, as we watch the video of you  
11 and Officer Mitchell handling Mr. Vann on the night of  
12 the incident.

13 A So when he goes to get placed in the  
14 car, I don't know if he doesn't want to get in or we  
15 back him away from the door, and then as I go to  
16 search him, I wouldn't know if he's resisting because  
17 I'm not in a position to be able to tell.

18 Q Okay. You don't know if, um, this  
19 arms-above-the-head technique is something that was  
20 trained at all, um, by the RPD, correct?

21 A Right.

22 Q Um, and if Mitchell pulled his arms up  
23 above his head like this solely for the purpose of  
24 inflicting pain, that would be a violation of  
25 department policy, right?

1 P.O. Adam Brodsky

2 A Correct.

3 Q And it would also be unlawful under  
4 state and federal law, correct?

5 MR. CAMPOLieto: Objection.

6 A Right. I mean, there are times where  
7 pain compliance -- force compliance is used, so I --  
8 it depends on what the goal is.

9 Q Okay. So I just want you to listen to  
10 my question.

11 If the goal -- if he was solely pulling  
12 his arms above his head to inflict pain, that would be  
13 a violation of department policy, and it would also be  
14 unlawful, correct?

15 A That would be problematic, yes.

16 Q All right. I'm going to hit play.

17 (Video played.)

18 Q Now I'm just going to pause.

19 Do you see -- no, I'm sorry, you said  
20 that this was Lafave, correct?

21 A I believe so, yes.

22 Q And he's kind of -- you see him kind of  
23 pointing, these EMTs have just walked up, over around  
24 and stuff. Would it be fair to say that LaFave was  
25 like the officer in charge at the scene?

1 P.O. Adam Brodsky

2 A Yes.

3 Q Okay. You remember that or that's what  
4 it looks like as you watch the video?

5 A Um, if he is the only supervisor on  
6 scene at that time, then he would be the commanding  
7 officer.

8 Q Okay. All right. So we're paused at  
9 11:07 on the bottom left and 11:44:17 in the top  
10 right, and I'm just going to hit play again.

11 (Video played.)

12 Q And I'm just pausing now at 11:17 on the  
13 bottom left, and 11:44:25 on the top right.

14 Um, is it fair to say that it looks  
15 like, um, Sergeant Lafave walked up next to you and  
16 Officer Mitchell at this point?

17 A If that's who that is, yes.

18 Q Okay. This person standing here is next  
19 to you, right (indicating)?

20 A Correct.

21 Q Okay. And Mr. Vann's arms are still  
22 above his head?

23 A It appears so.

24 Q And you probably can't tell from the  
25 still, um, image, but -- so I'll keep playing it,

1 P.O. Adam Brodsky

2 but -- and then I'll ask you if it looks like you're  
3 still searching him at that point, okay?

4 (Video played.)

5 Q Let me pause it right here.

6 Do you know who this is (indicating)?

7 A That looks like Officer Dempsey.

8 Q Okay. Thank you.

9 He's wearing the gloves and he just  
10 walked out of the store.

11 A I didn't see where he came from. I  
12 believe you if that's what you say.

13 (Video paused.)

14 MR. SHIELDS: Okay. And just for  
15 the record, we're paused at 11:23 in the  
16 bottom left and 11:44:30 in the top  
17 right, and I'm going to hit play again.

18 (Video played.)

19 Q All right. So I'm pausing right now.  
20 And 11:37 in the bottom left and 11:44:42 in the top  
21 right.

22 And did you watch what was happening  
23 with you and Officer Mitchell, um, with my client  
24 between the times that we were paused?

25 A I was watching this.

1 P.O. Adam Brodsky

2 Q So it looks like you kind of went over  
3 to the other side of him, right?

4 A Correct.

5 Q And like Officer Mitchell let his arms  
6 come down a little bit?

7 A Right.

8 Q Okay. And now, does it look like he's  
9 lifting his arms back up, and that's where we're  
10 paused?

11 A I don't know.

12 Q All right. So I'm going to hit play and  
13 then I'll ask you questions. We're 11:37 in the  
14 bottom left and 11:44:42 on the top right.

15 (Video played.)

16 Q And I'm going to pause, and now we're at  
17 11:41 in the bottom left and 11:44:45 in the top  
18 right.

19 Does it look like Officer Mitchell  
20 placed him back up against the car and put his hands  
21 back up above his head?

22 A Yes.

23 Q Do you know why he did that?

24 A No.

25 Q Did it look like my client was resisting

1 P.O. Adam Brodsky

2 or fighting in any way in between there?

3 A I don't know.

4 Q Okay. So no or you don't know?

5 A I don't know.

6 Q Okay. So let's just watch that real  
7 quick again.

8 A I'm not going to be able to answer that  
9 question because I'm not going to be able to tell if  
10 he's resisting or not at that time.

11 Q Okay. Well, I'm just going to play it  
12 again just, you know, just to see if you're seeing  
13 anything, okay? So we'll go on to --

14 MR. CAMPOLIETO: Elliot, can I  
15 just ask how much longer you have to go?

16 MR. SHIELDS: I play to the end  
17 when my four-year-old runs in here at  
18 about six o'clock.

19 MR. CAMPOLIETO: I was going to  
20 say six o'clock is the time that we  
21 probably got to go.

22 MR. SHIELDS: Yeah, then I think  
23 I should be done, John, and if not, we'll  
24 set up another time to finish, but I  
25 don't plan on going any longer, okay?

1 P.O. Adam Brodsky

2 MR. CAMPOLIETO: Okay.

3 Q All right. So you got -- you're coming  
4 around to the side, right? And I'm just going to  
5 pause.

6 Does that look like Dempsey to you again  
7 right behind Lafave?

8 A Yes.

9 MR. SHIELDS: For the record,  
10 we're paused at 11:35 in the bottom left  
11 and 11:44:40 in the top right. All  
12 right, and hitting play.

13 (Video played.)

14 Q All right. And now I'm pausing.

15 Did it look like Mitchell just kind of  
16 rolled him back and forth on the car?

17 A Say that -- I'm sorry, ask one more  
18 time.

19 Q Did it look like Mitchell moved my  
20 client on the back of the car for some reason?

21 A Yes.

22 Q Okay. Do you know why he did that?

23 A Yeah. The defendant started moving and  
24 not standing still.

25 Q Is that what that looked like to you?



1 P.O. Adam Brodsky

2 A Yeah.

3 Q Okay. Let's watch that again. All  
4 right. So we're at 11:39 in the bottom left and  
5 11:44:43 in the top right.

6 (Video played.)

7 Q All right. So that was the end of the  
8 video, okay.

9 Now, I think those are all my questions  
10 on that video, okay, for now. Oh, we're back to  
11 normal.

12 Let's see. Officer Brodsky, after the  
13 incident, did you fill out any paperwork?

14 A No.

15 Q Um, did you fill out a subject  
16 resistance report?

17 A No.

18 Q And the subject resistance report is  
19 required for any force other than handcuffing,  
20 blanketing, escorting or application of a hobble or  
21 spit sock, correct?

22 A Um, it can depend.

23 Q It can depend?

24 A Sure.

25 Q Okay. What would that depend on?

1 P.O. Adam Brodsky

2 A Um, a supervisor's discretion.

3 Q So a supervisor could say, You don't  
4 have to comply with RPD General Article 335 in their  
5 discretion?

6 A I didn't say that.

7 Q Okay. Can you explain what you meant  
8 then?

9 A If the supervisor is present or based on  
10 what happened doesn't feel that you used an amount of  
11 force that needs to be documented, then they will  
12 inform me that it does not need to be completed.

13 Q Okay. Is that what happened here? Is  
14 that why you didn't do a subject resistance report for  
15 this incident?

16 A I didn't do one, yes.

17 Q Because a supervisor told you you didn't  
18 need to?

19 A Um, my field training officer told me  
20 that one wasn't necessary.

21 Q Did you ask if you needed to do one and  
22 Dempsey said you didn't need to?

23 A He just -- I don't remember, but I  
24 remember him telling me that one wasn't necessary.

25 Q Okay. So just to be clear, Dempsey

1 P.O. Adam Brodsky

2 informed you you didn't have to fill out any paperwork  
3 for this incident, right?

4 A Correct.

5 Q Okay. After the incident, did you ever  
6 watch the video prior to watching it with John in  
7 preparation for your deposition here today?

8 A No.

9 Q So you never watched the video to learn  
10 from it in any way, correct?

11 A I've never seen the video.

12 Q And you were in your training period at  
13 the time that this incident happened, right?

14 A Right.

15 Q So necessarily the incident and what  
16 happened would be considered part of your training as  
17 an RPD officer, right?

18 A My interaction with it or my  
19 involvement?

20 Q Policies and procedures that needed to  
21 be followed, correct?

22 A We just -- yes, we would debrief my  
23 involvement in the incident for any incident.

24 Q Did you debrief your involvement in this  
25 incident?

1 P.O. Adam Brodsky

2 A Um, I'm sure we did.

3 Q And do you remember doing that?

4 A I don't remember specifics.

5 Q And do you remember, um -- do you  
6 remember who it would have been at that time, would it  
7 have been with your field training officer?

8 A What do you mean by that?

9 Q After an incident, when you're a recruit  
10 and you have an assigned field training officer, um,  
11 would be common practice to debrief with your field  
12 training officer?

13 A Yes.

14 Q Okay. Would it be common practice to  
15 also debrief with other people or just your field  
16 training officer?

17 A Usually just your field training  
18 officer.

19 Q Okay. And, um, in general when you're  
20 involved in a use of force incident, do you review  
21 your body camera video or any other video of the  
22 incident?

23 A Sometimes.

24 Q When would you not review it?

25 A If it's not necessary or it's minor.

1 P.O. Adam Brodsky

2 Q Okay. So in general, does the  
3 department use videos from force incidents to teach  
4 officers about the appropriate level of force that can  
5 be used in different circumstances?

6 A Not usually in-house videos.

7 Q So not usually videos of actual  
8 incidents like this?

9 A Of -- with our officers. I mean,  
10 they'll use training videos maybe, um, from other  
11 departments, um, or things that are available online.  
12 Um, we don't usually use incidents like that of our  
13 own officers in like a training environment for  
14 everybody to critique.

15 Q Um, now, you say you don't usually.  
16 Under any circumstances has the  
17 department done that?

18 A Not that I can recall.

19 Q Okay. So you don't recall ever watching  
20 a video of, I don't know, let's say, Benny Water.  
21 That case is over and done with, right?

22 So, Benny Water, the department never  
23 played that video and said, you know, Here, this was  
24 appropriate, this was inappropriate, or anything like  
25 that?

1 P.O. Adam Brodsky

2 A Actually, I remember in the academy  
3 watching the video of when, um, Officer Del Pearson  
4 was chasing a suspect and was shot and killed by him.

5 Q So you watched that in the academy?

6 A Yes.

7 Q And what did they teach you about that  
8 incident from watching that video in the academy?

9 A I believe the takeaway was when chasing  
10 somebody to be offset, so that if they reach back and  
11 fire a round like that, it's less likely to strike you  
12 in general.

13 Q So it was about officer safety?

14 A I believe that was the takeaway.

15 Q Okay. All right. Let's say there's an  
16 incident where there was a complaint made against you,  
17 would you ever watch any video of that incident, um,  
18 as part of the review process for that complaint?

19 A Um, a complaint? What do you mean by  
20 a -- like a complaint how?

21 Q Let's say, you know, a citizen complaint  
22 saying that you used excessive force against them?

23 MR. CAMPOLIETO: Objection

24 (inaudible.)

25 (Reporter clarification.)

1 P.O. Adam Brodsky

2 MR. CAMPOLIETO: I said

3 "Objection."

4 Q Yeah. It's a hypothetical question.

5 A So if a citizen made a call to 911 and  
6 they complained to my direct supervisor that I used  
7 excessive force against them, would I review the body  
8 cam footage?

9 Q Yeah, or I mean they don't have to call  
10 911, right? There's a whole process for making a  
11 complaint against an officer with CRB, you know, it  
12 gets elevated to PSS, it goes through the process.

13 Um, do you know under those  
14 circumstances, would you review the video?

15 A Um, if you're talking a complaint that  
16 rose to that level, then I probably would.

17 Q Yeah. Now, in your time at the RPD,  
18 have you ever been disciplined for any incident  
19 whatsoever?

20 A No.

21 Q Do you remember any incidents where  
22 you've ever had any internal complaints filed by a  
23 citizen against alleging that you violated their  
24 rights in some way?

25 A No.

1 P.O. Adam Brodsky

2 Q Have you ever had any internal  
3 complaints lodged against you by the department?

4 A No.

5 Q Now, do you know in your concise officer  
6 history, there was one incident that was listed in --  
7 let me see if I can find that -- from 2016.

8 Um, do you know what I'm talking about?

9 A Um, no. If you told me more about it,  
10 maybe.

11 Q Okay. You were involved in an incident  
12 like in the Seneca Park Zoo; is that right?

13 A Yes.

14 Q There was some sort of investigation  
15 that happened after that?

16 A Yes.

17 Q And can you tell me basically what  
18 happened in that incident?

19 A Um, I was hit, run over and drug by a  
20 car.

21 Q And, um, was the review that was done  
22 something that was -- do you know why there was a  
23 review done by the police department that would have  
24 --

25 A Yes.



1 P.O. Adam Brodsky

2 Q Can you just explain that?

3 A I discharged my firearm.

4 Q Okay. And is there automatic basically  
5 anytime you discharge a firearm that there will be a  
6 review process?

7 A I believe so.

8 Q Okay. And did you discharge your  
9 firearm at the person that struck you with the car?

10 A Yes.

11 Q And you were given an award, um, I think  
12 Officer of the Month or something, right?

13 A Yes.

14 Q And did you strike the person that you  
15 shot at?

16 A Yes.

17 Q Were they killed?

18 A No.

19 Q Okay. Did you get any kind of  
20 counseling after you shot the person?

21 MR. CAMPOLIETO: Objection to the  
22 question.

23 I mean, are you asking him if he  
24 received psychological counseling or what  
25 are you asking?

1 P.O. Adam Brodsky

2 MR. SHIELDS: Correct.

3 MR. CAMPOLIETO: It's a sensitive  
4 area in terms of what we're going to.  
5 I'll allow him to answer this --

6 MR. SHIELDS: I'm not trying to  
7 dig for too much, John. What I want to  
8 know is, did you get counseling and is  
9 that pursuant to policy for the RPD if  
10 you discharge your firearm and hit  
11 somebody, do you get counseling?

12 MR. CAMPOLIETO: Okay.

13 A Yes.

14 Q Okay. Did you have to take time off of  
15 work, is that mandatory?

16 A They required me to take a certain  
17 amount of time off the road; however, I was severely  
18 injured, so I wasn't returning.

19 Q Got it. All right. I don't think I  
20 need to put up your officer history on that since all  
21 of that makes sense.

22 So how long were you out because of your  
23 injury?

24 A About two months, maybe three. I think  
25 it was two.

1 P.O. Adam Brodsky

2 Q Okay. And you recovered, thank God?

3 A Yes, for the most part.

4 Q Are you back to full service now?

5 A Yes.

6 Q Okay. All right. All right. What I  
7 want to do is just go back to the video and play from  
8 earlier, okay, and ask you some questions.

9 Can you see the video again?

10 A No.

11 Q Oh, I'm sorry. Because I did not hit  
12 share. There we go. I'm sorry. Do you see it now  
13 (screen sharing)?

14 A (Viewing.) Yes.

15 Q All right. I'm going to play it  
16 through, the video, and ask you a couple of questions  
17 and hopefully we can get out of here, okay?

18 A Okay.

19 (Video played.)

20 Q So I'm just going to pause.

21 (Video paused.)

22 Do you recognize who this is?

23 A I believe that's Officer Kester.

24 Q How about this officer (indicating)?

25 A Um, this might be Drake.

1 P.O. Adam Brodsky

2 Q I'll represent to you that is Kester and  
3 that is Drake (indicating).

4 A Okay.

5 Q Okay. And we're paused at 4:44 on the  
6 bottom left and 11:38:57 on the top right.

7 And also, we see here a man standing  
8 near this trash can in all white, right? And one  
9 other person over by the bench with a bicycle; is that  
10 right?

11 A Yeah. It appears to be.

12 Q Okay. I'm going to hit play, okay?  
13 (Video played.)

14 Q Let me just pause this here.

15 (Video paused.)

16 Q Have you ever seen this part of the  
17 video before?

18 A No.

19 Q Okay. You didn't watch this part of the  
20 video when you were with John?

21 A No.

22 Q You only watched the later part that we  
23 watched earlier?

24 A Right.

25 Q Okay. I'm going to fast forward a

1 P.O. Adam Brodsky

2 little bit and see if we cannot waste time.

3 (Fast forwarding video.)

4 Q Okay. So now I fast forwarded to 6:12  
5 on the bottom left and 11:40:11 on the top right,  
6 okay?

7 And it looks like my client is walking  
8 on the sidewalk at this point kind of towards the  
9 camera; is that fair to say?

10 A Yeah -- yes.

11 Q And you see Kester with his hand up  
12 making a gesture apparently?

13 A Apparently.

14 Q And the other officer is just standing  
15 there?

16 A Right.

17 Q Okay. I'm going to hit play.

18 (Video played.)

19 Q Okay. I'm just going to pause right at  
20 6:23 on the bottom left, 11:40:20 on the top right.

21 And it looks like they've approached him  
22 and put his hands behind his back; is that accurate?

23 A Right.

24 Q Okay. And when I say "they," it looks  
25 like Mitchell and Drake -- I'm sorry, Mitchell and

1 P.O. Adam Brodsky

2 Kester; is that right?

3 A Right.

4 Q Okay. And Drake is standing in front of  
5 them?

6 A Correct.

7 Q Okay. And it looks like his hands, you  
8 can see them both behind his back, but he's not quite  
9 handcuffed yet?

10 A Yeah. He's not handcuffed. His hands  
11 are behind his back.

12 Q Okay. And I'm going to hit play.

13 (Video played.)

14 Q All right. And I paused at 6:28 on the  
15 bottom left and 11:40:24 on the top right.

16 Does it look like Mitchell just put a  
17 handcuff on his -- it looks like his left hand?

18 A I don't know.

19 Q All right. And let's watch that little  
20 part again, okay?

21 (Video played.)

22 Q All right. So we're paused right at  
23 6:27, and on this paused screen, does it look like  
24 Mitchell is starting to apply a handcuff on his left  
25 hand?

1 P.O. Adam Brodsky

2 A Yes.

3 MR. SHIELDS: Okay. For the  
4 record, it was 6:27 on the bottom left  
5 and 11:40:23 on the top right. I'm going  
6 to hit play again.

7 (Video played.)

8 Q I'm just going to pause real quick at  
9 6:29 on the bottom left, 11:40:25 on the top right.

10 Does it looks like he got the handcuff  
11 on his left hand?

12 A I don't know.

13 Q Okay. I'm just going to hit play now,  
14 okay?

15 (Video played.)

16 Q And now we're paused right at 6:37 on  
17 the bottom left and 11:40:32 on the top right.

18 And my question is, does it look like  
19 Officer Kester is grabbing my client's neck or head  
20 area?

21 A He's reaching across him, yes.

22 (Video played.)

23 Q Okay. I'm sorry, now I'm hitting play  
24 and now I'm going to hit play and I paused at 6:39 on  
25 the bottom left and 11:40:33 on the top right.

1 P.O. Adam Brodsky

2 Um, now, does it look like Officer Drake  
3 has his hand on Officer Mitchell's back here?

4 A Yes.

5 Q And it looks like Officer Mitchell has  
6 his hands on Mr. Vann's hands here?

7 A In the area of.

8 Q Okay. And, um, an area of his hands  
9 which are behind his back, right?

10 A It appears so.

11 Q Okay. And it looks like Officer Kester  
12 is still kind of around the area of my client's head  
13 or upper shoulder area, right?

14 A Right.

15 (Video played.)

16 Q Okay. And now I'm going to hit play  
17 again. We're at 6:39 on the bottom left and 11:40:33  
18 on the top right.

19 (Video played.)

20 Q All right. Now I paused at 6:41 on the  
21 bottom left, 11:40:35 on the top right.

22 Did it look like they all kind of pushed  
23 into the bench where the bike was propped up against  
24 it?

25 MR. CAMPOLIETO: Objection.



1 P.O. Adam Brodsky

2 You can answer.

3 A They are in the area of the bench and  
4 bike.

5 Q Okay. So it looks like my client kind  
6 of bounced off the bench and the bike?

7 A I don't know.

8 Q All right. Let's just play that one  
9 more time and I'll ask you again.

10 (Video played.)

11 Q All right. Right there, did it look  
12 like he hit him -- did it look like the bike moved  
13 because someone touched the bike?

14 A You have to play it again.

15 Q Okay. No problem. I aligned it to --  
16 let's see. All right. So starting the video again  
17 from 6:38 at the bottom left and 11:40:33 at the top  
18 right.

19 (Video played.)

20 A Yes, the bike moves.

21 Q Okay, thank you.

22 All right. And now I'm going to pause  
23 this video and I'm going to fast forward a little bit,  
24 okay?

25 (Video played.)

1 P.O. Adam Brodsky

2 Q I fast forwarded to 7:56 on the bottom  
3 left and 11:41:37 on the top right, okay?

4 And I'll just represent to you that this  
5 is Officer Mitchell walking my client David Vann over  
6 to the car, okay? And I'm just going to play it from  
7 here.

8 (Video played.)

9 Q Okay. So I'm pausing it at 8:15 in the  
10 bottom left and 11:41:54 in the top right.

11 Does it look during that time period  
12 like Mr. Vann ever escaped from his handcuffs?

13 A Um, I didn't see when the handcuffs were  
14 applied. Was that off camera?

15 Q I'll just represent -- sure. We'll just  
16 represent to you that he was handcuffed, um, before he  
17 was walked over to the car.

18 Did it look like he'd ever performed  
19 some kind of Houdini move and escaped from his  
20 handcuffs to you?

21 A The handcuffs are still applied, if  
22 they're on.

23 Q So the answer is no, he did not escape  
24 from his handcuffs, right?

25 A I don't think he escaped from his

1 P.O. Adam Brodsky

2 handcuffs. I don't know. I can't see that.

3 Q Okay.

4 A It doesn't appear -- it appears his  
5 hands are still behind his back hands in their cuff.

6 Q Okay. So that's going to be the same  
7 question I'm going to ask you. I'm just going to play  
8 it again, okay?

9 (Video played.)

10 Q From right here at 7:54 on the bottom  
11 left and 11:41:36 on the top right, okay?

12 (Video played.)

13 Q All right. So I'm going to pause again  
14 at 8:14 on the bottom left and 11:41:52 on the top  
15 right.

16 (Video paused.)

17 Q Throughout that period, did it appear to  
18 you, Officer Brodsky, that Mr. Vann ever escaped from  
19 his handcuffs?

20 A No. I guess. I don't really know what  
21 you mean by that. Like did he take them off or did  
22 he --

23 Q Yeah, exactly. At any point in that  
24 little clip that we just played did it look like  
25 Mr. Vann was only wearing one handcuff?

1 P.O. Adam Brodsky

2 A I don't know. I don't know. I can't  
3 tell from this.

4 Q Okay. I just want you to try and pay  
5 attention to his hands and tell me, does it look like  
6 when -- let's say -- let's just say from the point  
7 when right here until -- just tell me, does it look to  
8 you from between where we're paused at 7:55 to  
9 11:41:37 on the top right -- um, at this point, let me  
10 just ask you based on this still screen, an officer  
11 generally wouldn't walk an officer over to the car  
12 with only one handcuff applied, right?

13 MR. CAMPOLIETO: Objection to the  
14 still screen. He's answered the question  
15 of whether he thought he was handcuffed,  
16 so it's asked and answered. I'll let him  
17 go this last time again if you want to  
18 ask him the questions again.

19 MR. SHIELDS: Sure. John, asked  
20 and answered actually is not an  
21 appropriate objection.

22 MR. CAMPOLIETO: I mean, first of  
23 all, it's a vague question. It's also a  
24 repetitive question and he's answered it  
25 three times already.

1 P.O. Adam Brodsky

2 MR. SHIELDS: He's given  
3 different answers, John. We're looking  
4 at a video that, you know, people can  
5 disagree about, so --

6 MR. CAMPOLIETO: (Inaudible.)

7 (Multiple voices.)

8 MR. SHIELDS: So let me just play  
9 the video and we'll be out of here, okay?

10 (Video played.)

11 Q Okay. So right there, before I paused  
12 at 8:01 and 11:41:44, did it appear to you that he had  
13 two handcuffs applied to his hands?

14 A I don't know how well they're applied,  
15 but his hands are behind his back.

16 Q His hands are behind his back, right?

17 A Right.

18 Q And both hands are behind his back,  
19 right?

20 A It appears so.

21 Q And that would indicate to you that both  
22 handcuffs were most likely applied, not just one  
23 handcuff on one side, right?

24 A I don't know how he had them on.

25 Q All right. And let's just play from

1 P.O. Adam Brodsky

2 here.

3 (Video played.)

4 Q I'm going to pause here at 8:11 on the  
5 bottom left and 11:41:50 in the top right.

6 And, um, why do you think they took him  
7 to the ground like that?

8 A Because he was resisting.

9 Q Oh, it looked like he was resisting to  
10 you?

11 A It looked like he was, um, holding his  
12 weight, not complying and not going with where they're  
13 walking.

14 Q Okay.

15 A I don't know what other type of  
16 resistance he was offering physically because my hands  
17 weren't on him and I wasn't there --

18 Q Okay.

19 A -- but it doesn't look like he was doing  
20 what he was being told to do.

21 Q At 7:56 on the bottom left and 11:41:37  
22 on the top right --

23 (Reporter clarification.)

24 MR. CAMPOLIETO: Object to the  
25 use of the freeze-frame video.

1 P.O. Adam Brodsky

2 Q Okay. So at this point, does it look  
3 like Officer Mitchell is grabbing my client by the  
4 neck?

5 A I don't know.

6 Q Okay. Where are Officer Mitchell's  
7 hands right now?

8 A Could be on his shoulders, could be on  
9 his arms, could be on his neck, could be on his back  
10 of his head.

11 Q And we're at 8:01 in the bottom left and  
12 11:41:42 in the top right.

13 (Video played.)

14 Q And what's it look to you like  
15 Officer Mitchell is trying to do right now?

16 MR. CAMPOLIETO: Objection. He  
17 can't answer for Officer Mitchell.

18 A I don't know what his intentions are.

19 MR. SHIELDS: What does it look  
20 like he's trying to do, John. He can  
21 answer what the video looks like.

22 MR. CAMPOLIETO: How does he know  
23 what Officer Mitchell is trying to do?

24 MR. SHIELDS: Okay. Well, what  
25 does it looks like, John? That is the

1 P.O. Adam Brodsky

2 question.

3 A It looks like he's standing there with  
4 his arms out forward. His one leg's back straight and  
5 the first one is bent a little bit, then the leg  
6 closest to Mr. Vann.

7 Q Like he's trying to pull him, right?

8 A Let's continue and see if that's what  
9 happens.

10 Q Okay.

11 (Video played.)

12 A Yes, he was pulling him.

13 Q All right. And now paused at 8:03 in  
14 the bottom left and 11:41:44 on the top right. And  
15 I'm just going to play it again.

16 (Video played.)

17 Q And now, did it look to you like  
18 Officer Mitchell just struck him in the face?

19 A I don't know.

20 Q If he did strike him in the face, let's  
21 just say that he did strike him in the face, would  
22 that have been appropriate under the circumstances?

23 A Well, I don't know that he did to say  
24 let's just say that he did. I mean --

25 Q Hypothetically. That doesn't mean that



1 P.O. Adam Brodsky

2 he did.

3 Hypothetically, if he had punched him in  
4 the face right there while he's handcuffed, it didn't  
5 look like he could pose any physical threat, would  
6 that have been appropriate?

7 A I don't know what he did. I don't know  
8 how to answer that any better.

9 Q Okay. So if Officer Mitchell punched  
10 him in the face as he was handcuffed behind his back,  
11 we established earlier that strikes to the head can be  
12 Level 4 force, correct?

13 A It depends.

14 Q It depends. It can be, correct?

15 A Sure.

16 Q A strike to the face can be Level 4  
17 force, right?

18 A Right.

19 Q And to use Level 4 force, you have to be  
20 getting a threat from the subject that is equal to,  
21 you know, almost Level 4 force from the subject to the  
22 officer, or someone else, correct?

23 A Are you implying that this is a use of  
24 Level 4 techniques?

25 (Multiple voices.)

1 P.O. Adam Brodsky

2 Q What I'm asking you is if an officer is  
3 using force it has to be justified, right?

4 A Correct.

5 Q And to use Level 4 force which could  
6 include in some circumstances strikes to the head, you  
7 have to be faced with Level 4 force, either yourself,  
8 as the officer, or that person has to be using Level 4  
9 force potentially against someone else, right?

10 A Yes, but I don't think that's applicable  
11 here, if that's what you're trying to imply.

12 Q So the answer is yes.

13 MS. SHIELDS: And I'm going to  
14 move to strike the --

15 MR. CAMPOLIETO: Objection.

16 MS. SHIELDS: -- nonresponsive  
17 portion of the question.

18 MR. CAMPOLIETO: Objection.

19 Q All right. I'm just going to -- and so  
20 the question is, um -- all right. I'm just going to  
21 play this, and then --

22 MR. CAMPOLIETO: Well, what is  
23 the question?

24 MR. SHIELDS: I'm sorry. I  
25 withdraw the question. He answered the

1 P.O. Adam Brodsky  
2 portion of the question that I was asking  
3 an answer for. Thank you.

4 MR. CAMPOLIETO: But you withdrew  
5 the question.

6 MR. SHIELDS: John, he answered  
7 yes, and then he gave some other answer.  
8 I moved to strike the nonresponsive  
9 portion, and you objected. I think  
10 that's what the record will show. And  
11 then I said --

12 MR. CAMPOLIETO: And he --

13 MR. SHIELDS: -- and then I said  
14 what my question is and then I withdrew  
15 my part that said what my question is.  
16 That's what I recall.

17 MR. CAMPOLIETO: He said Level 4  
18 force is not applicable here.

19 MR. SHIELDS: I didn't say that.

20 MR. CAMPOLIETO: He said it.

21 MR. SHIELDS: He said it, and I  
22 moved to strike the nonresponsive portion  
23 of the question which is what he said.

24 MR. CAMPOLIETO: And I've  
25 objected to that.

1 P.O. Adam Brodsky

2 Okay, go ahead.

3 Q Okay. And you think that it was  
4 necessary for them to throw him to the ground like  
5 that?

6 A I don't know.

7 MR. SHIELDS: Okay. All right.

8 So at this point, you know, I think that  
9 I'm done with my questions for now.

10 What I want to do, John, is -- I think  
11 I'm done, but I just want to review this.  
12 Um, I don't think I'm going to need to  
13 call Officer Brodsky back, but, you know,  
14 for the record, you guys -- let me just  
15 ask you a couple of other questions.

16 Q We had to move the other deposition from  
17 2 p.m. to 3 p.m. today because you had training,  
18 correct?

19 A Correct.

20 Q And what was your training on today?

21 A I'm a member of the hostage negotiation  
22 team.

23 Q And so your training was part of the  
24 hostage negotiation team?

25 A Correct.

1 P.O. Adam Brodsky

2 Q Okay. And so that's the reason that we  
3 had to start the deposition an hour later, um, at  
4 three o'clock instead of two o'clock, right?

5 A Well, I had to miss the least amount of  
6 training as possible. I still had to miss an hour of  
7 it and now I am two hours behind my shift.

8 Q Okay. But for the purposes of our  
9 deposition, we started late today because you had  
10 training, right?

11 A Yes.

12 MR. SHIELDS: Okay. All right.  
13 And so just for the record, John, to  
14 clear up what we talked about earlier,  
15 you said that you're not going to object  
16 to more than ten depositions in the case,  
17 um, right?

18 MR. CAMPOLIETO: Yeah. I don't  
19 have the number for you, but, you know,  
20 I'll allow 20 dep -- I mean, without  
21 permission of the court, I'm going to  
22 allow you, Elliot, 20 depositions here.  
23 If we go beyond 20, I would ask to seek  
24 permission.

25 MR. SHIELDS: Thank you, John.

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2 And then just for the record  
3 today, I'm done with my questions for  
4 today, but I want to hold the deposition  
5 open since we didn't go for the full time  
6 that we had planned for to start at  
7 2 p.m. Um, we only went from a little  
8 after three until a little after six.  
9 Um, and I will get back to you, John, as  
10 to whether I think I need to, you know,  
11 use my whole -- maybe not the whole seven  
12 hours, but that additional hour that we  
13 missed out on, okay?

14 MR. CAMPOLIETO: I will agree to  
15 that as long as we're not going back over  
16 old testimony, so if you have new  
17 questions, but in terms of his, you  
18 know --

19 MR. SHIELDS: I'm not going to  
20 ask him all the questions about the video  
21 that I already asked him.

22 MR. CAMPOLIETO: Well, I was  
23 talking about his training and the  
24 background information, that's done.  
25 Maybe if you have more questions about

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2 the incident, I'll allow it. Do we have  
3 a limit? Do you want to reserve the full  
4 four hours that we have left?

5 MR. SHIELDS: Sure. Look, I  
6 mean, I scheduled it for two because I  
7 didn't think I needed, you know, the  
8 whole seven, right? You know, but we  
9 only got three and I just don't want to  
10 say I'm done, I'm done and then get the  
11 transcript and say, Oh, man, there is  
12 that thing that I was rushed and I forgot  
13 to ask, okay?

14 MR. CAMPOLIETO: All right. But  
15 again, it would be questions regarding  
16 the incident, we would agree to that.

17 MR. SHIELDS: And look, if  
18 there's some like important training  
19 thing that I don't think off the top of  
20 my head right now I missed, but let's say  
21 I look at some document, and I'm like,  
22 Oh, I have a couple of questions about  
23 this, like, yeah, if I didn't ask it  
24 before, I think that's appropriate. I  
25 don't plan on redoing -- of calling him

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2 back to testify more, but --

3 MR. CAMPOLIETO: Okay.

4 MR. SHIELDS: -- I can't close  
5 the deposition and say I'm done, I agree  
6 not to take him back, okay?

7 MR. CAMPOLIETO: Right, but if  
8 it's in regards to RPD training and this  
9 incident, that's fine.

10 MR. SHIELDS: Okay.

11 MR. CAMPOLIETO: I have a couple  
12 of questions for him, so I'm just going  
13 to ask him.

14 EXAMINATION BY

15 MR. CAMPOLIETO:

16 Q Officer, when you reviewed the video  
17 today shown to you by Mr. Shields, is that the view  
18 of -- is that the view you have when you're working on  
19 the street and interacting with individuals?

20 A The video view that was shown?

21 Q When you viewed the video today shown to  
22 you by Mr. Shields, is that the view you have when  
23 you're working on the street interacting with  
24 individuals?

25 A No.



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2 Q How is it different?

3 A It is on street level. Um, there is  
4 audio. The colors are more vivid.

5 Q Are you able to see the whole of the  
6 incident when you're on the street as compared to when  
7 you watched the video today?

8 A No.

9 Q And how is that different from what you  
10 saw today and from when you were on the street?

11 A Based on where you're standing, you may  
12 be blocked by objects or people from seeing the  
13 totality, um, or just simply based on what you're  
14 looking at at the time or paying attention to, you may  
15 miss other things that are happening.

16 Q When you were on the street interacting  
17 with individuals, is it the same speed as when you  
18 were watching the video today?

19 A No.

20 Q How is it different?

21 A Um, at times it seemed slow and at times  
22 it seemed faster. It's differently more fluid. Um,  
23 the things that you are paying attention to aren't as  
24 choppy.

25 Q Are there things that you could see in

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2 the video you were shown today that you weren't able  
3 to see at the time you were interacting with the  
4 plaintiff in this case?

5 A Part of it.

6 Q And what part of it are you referring  
7 to?

8 A Everything prior to me responding.

9 Q Okay. Well, that's obvious.

10 But when you were watching the parts  
11 that you were in, um, were there things that you were  
12 able to see watching the video today that you weren't  
13 able to see at the time?

14 A Yes.

15 Q What?

16 A When I was kneeling next to the  
17 defendant's, um, shoulder/head area, anything beyond  
18 that officer next to me, I couldn't see. I couldn't  
19 see his legs. I couldn't see his hands. Um, I  
20 couldn't -- when I was searching him, I was paying  
21 attention to what I was looking at. I couldn't see  
22 what he was doing at that time.

23 Q And do you have the ability to stop and  
24 start your viewing when you were on the street like  
25 you did today, with the start and stop?

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2 A Of course not.

3 MR. CAMPOLIETO: Elliot, I don't  
4 have any further questions.

5 MR. SHIELDS: Thanks. I have no  
6 more as well.

7 THE REPORTER: You both want a  
8 copy?

9 MR. SHIELDS: Yes. I'll take  
10 just a digital copy is good for me.

11 MR. CAMPOLIETO: Yes. I'll take  
12 a copy of the transcript. An electronic  
13 e-mail copy of the transcript.

14 (TIME NOTED: 6:13 p.m.)

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A C K N O W L E D G M E N T

STATE OF NEW YORK )  
 ) ss  
COUNTY OF SUFFOLK )

I, P.O. ADAM BRODSKY, hereby certify that I  
have read the transcript of my testimony taken under  
oath in my deposition of March 23rd of 2022; that the  
transcript is a true, complete and correct record of  
my testimony, and that the answers on the record as  
given by me are true and correct.

\_\_\_\_\_  
P.O. ADAM BRODSKY

Subscribed and sworn to  
before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Notary Public

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## 1 CERTIFICATION

2  
3 STATE OF NEW YORK )

) ss

4 COUNTY OF SUFFOLK )  
56 I, JEANINE KOERNER, a Notary Public in and  
7 for the State of New York, do hereby certify:8 THAT the witness(es) whose testimony is  
9 hereinbefore set forth, was duly sworn by me; and10 THAT the within transcript is a true record  
11 of the testimony given by said witness(es).12 I further certify that I am not related,  
13 either by blood or marriage, to any of the parties to  
14 this action; and15 THAT I am in no way interested in the outcome  
16 of this matter.17 IN WITNESS WHEREOF, I have hereunto set my  
18 hand this 2nd day of April, 2022.19  
20 *Jeanine Koerner*  
21

JEANINE KOERNER



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